



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

MAY - 1 2013

Susan H. Shapiro, Esq.  
21 Perlman Drive  
Spring Valley, NY 10977

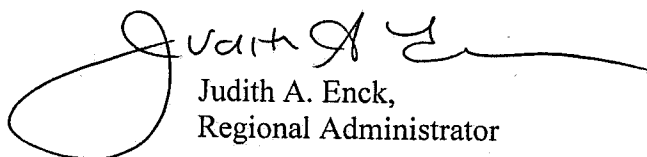
Dear Ms. Shapiro:

This is in response to your January 14, 2013 and April 11, 2013 letters to the U.S. Environmental Protection Agency (EPA) Region 2, expressing your continuing concern over the proposed Patrick Farm subdivision, to be constructed in the Town of Ramapo, Rockland County, New York. We appreciate the information you have provided us to date and take the matter very seriously.

As you know, on March 11, 2013, we wrote to the Executive Director of the Rockland County Sewer District No. 1 (District) and strongly recommended that a jurisdictional determination be obtained from the U.S. Army Corps of Engineers to avoid any potential ramifications should wetlands be filled during construction of this project. The District, in turn, informed the Town of Ramapo in a March 26, 2013 letter that, "as a condition of allowing the Patrick Farm Project to connect to the District's sewer system, the District requires the project sponsor to obtain and forward to the EPA and to the District a jurisdictional determination (JD) from the U.S. Army Corps of Engineers verifying the extent of the project area wetlands."

EPA has communicated its position to the Corps and the New York State Department of Environmental Conservation and will continue to watch this matter closely. Again, I appreciate your interest in human health and the environment and trust you will continue to share any concerns you have with us. If you have any questions, or require additional information concerning the JD, please contact Dan Montella at (212) 637-3801. If you have questions concerning the Environmentally Sensitive Area Special grant condition waiver approval, please contact Judy-Ann Mitchell at x-3721.

Sincerely,



Judith A. Enck,  
Regional Administrator



bcc: J. Cantilli, CWD-WMB  
D. Montella, CWD-WMB  
S. Ferreira, CASD-SMPB  
J. Filippelli, CASD  
D. Boykin, OPM (R2-13-000-3149-RA)  
S. Mason-Scott, CASD  
E. Johnson, CASD-SMPB  
P. Feinmark, ORC

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CASD-SMPB:FERREIRA:05/01/13:x3759





MILTON B. SHAPIRO

SUSAN H. SHAPIRO

21 PERLMAN DRIVE • SPRING VALLEY, NEW YORK 10977

Steve - does any of  
this need to be  
in the project file?  
If not, toss.

ATTORNEYS AT LAW

(845) 371-2100  
(845) 371-3721 - FAX  
mbs@ourrocklandoffice.com

April 11, 2013

Ms. Judith Enck  
Regional Administrator, Region 2  
Environmental Protection Agency  
290 Broadway  
New York, NY 10007-1866  
Fax: (212) 637-3526/ enck.judith@epa.gov

RE: PATRICK FARM PROJECT  
Town of Ramapo, Rockland County, New York  
No ACOE Wetland Delineation/Jurisdiction Determination

Dear Judith,

I want to thank you and your staff for being responsive in communicating with the Rockland County Sewer District No. 1 with regard to the need of the applicant obtaining an approved ACOE JD in order to be in compliance with the ESA waiver for construction on the Patrick Farm, a site identified by the EPA for protection as an environmentally sensitive site as recharge fields for the underlying Ramapo-Mahwah Sole Source Aquifer.

I am now writing you because currently the NYS DEC, the other agency authorized by the EPA to enforce the Federal Clean Water Act and Safe Drinking Water regulations, will soon decide whether to hold an adjudicatory hearing or approve Scenic's three permit applications of dam reconstruction, stream crossings and 401 water certification.

On January 3, 2013, the DEC submitted a letter to the applicant, Scenic Development, LLC, the Town of Ramapo and the Town of Ramapo Planning Board. Oddly, the Town of Ramapo Planning Board did not have a copy of this letter in its records or consider it when, on March 20, 2013 the Town of Ramapo Planning Board approved final subdivision and site plan approval, without consideration of the DEC's January 3, 2013 letter requiring an ACOE JD.

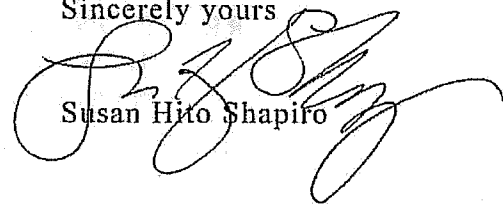
Scenic knowingly intentionally mislead Town of Ramapo Planning Board and the New York State Supreme Court by failing to reveal the existence of the DEC January 3, 2013 letter requiring an approved ACOE JD. They are now attempting to convince the DEC that an approved ACOE JD is not needed.

Attached is a copy of a letter submitted by Deb Munitz of Rockland  
Organized for a Sustainable Aquifer (ROSA) to Scott Ballard of the DEC.

We believe it would be inconsistent for the NYS DEC not to require an  
approved JD when the EPA has strongly recommended the applicant be  
required to apply for an approved ACOE JD and the local Sewer District No.  
1 has required an approved ACOE JD. (see attached letters) to ensure  
compliance with the Clean Water and Safe Drinking Water Acts.

Thank you again for your time and consideration.

Sincerely yours



Susan Hito Shapiro

cc: Joan Matthews, EPA  
James Palmer, ACOE  
Basil Seggos

Susan H. Shapiro, Esq.  
21 Perlman Drive  
Spring Valley, New York 10977

Dear Ms. Shapiro:

This is in response to your January 14, 2013 letter to the U. S. Environmental Protection Agency (EPA) Region 2, concerning the proposed Patrick Farm subdivision, to be constructed in the Town of Ramapo, Rockland County, New York. This project was the subject of an August, 2011 Environmentally Sensitive Area (ESA) special grant condition waiver approval issued by EPA Region 2, which allowed the project to connect to the federally-funded Rockland County SD#1 (RCSD#1) sewage treatment works. More specifically, your letter raises issues about the accuracy of the wetlands delineation prepared in support of this project, a delineation that was not subject to a Jurisdictional Determination (JD) by the US Army Corps of Engineers (ACE). In consideration of the above, you request that EPA Region 2 inform the Town of Ramapo Planning Board that a new waiver is needed.

Please be advised that we have received no updated information on this project since our March 13, 2013 response to your previous letter concerning this matter. As noted in that correspondence, we have strongly recommended to the RCSD#1 that a JD be obtained from the ACE to avoid any potential ramifications should wetlands be filled during construction of this project.

We appreciate your interest in human health and the environment and trust you will continue to share any concerns you have with us. If you have any questions about this matter, or require additional information, please contact Judy-Ann Mitchell of my staff at (212) 637-3721.

Sincerely yours,

Judith A. Enck  
Regional Administrator

CONCURRENCES								
Name: FERREIRA		Init: hb	Date: 03/28/13		File: .G: Shapiro2.docx			
Symbol	CASD-SMPB	CASD-SMPB	CASD-DD	CASD	DRA	ORA	RA	
Surname	Ferreira	Mitchell	Iglesias	Filippelli	Pavlou	Plevin	Enck	
Date		4/11/13	4/11	4/12	4/12	4/12		

bcc: J. Cantilli, CWD-WMB  
D. Montella, CWD-WMB  
G. Musumeci, CASD-SMP  
S, Ferreira, CASD-SMPB  
J. Filippelli, CASD  
D. Boykin, OPM (R2-13-000-3149-RA)  
S. Mason-Scott, CASD  
E. Johnson, CASD-SMPB  
P. Feinmark, ORC  
G. Pavlou, ORA  
L. Plevin, ORA



## COUNTY OF ROCKLAND

### SEWER DISTRICT NO. 1

4 Route 340  
Orangeburg, New York 10962  
(845) 365-6111  
Fax. (845) 365-6686

C. SCOTT VANDERHOEF  
County Executive

JULIUS GRAIFMAN  
Chairman  
CHRISTOPHER P. ST. LAWRENCE  
Vice-Chairman  
DIANNE T. PHILIPPS, P.E.  
Executive Director

March 26, 2013

Mr. Anthony Mallia  
Director of Building, Planning and Zoning  
Town of Ramapo  
237 Route 59  
Suffern, NY 10901

Re: Patrick Farm  
Route 202 and Route 306  
Tax Lots 89/32.11-1-2, 3, 4, 12, 13, 14, 15 & 16 and 32.14-2-3

Dear Mr. Mallia:

Our office has received and reviewed correspondence dated March 11, 2013 from the United States Environmental Protection Agency (EPA) to Rockland County Sewer District No. 1 (RCSD#1) regarding the environmentally sensitive area (ESA) waiver for the Patrick Farm project. Attached please find a copy of the above referenced correspondence from the EPA.

On March 22, 2011, the District had forwarded an ESA waiver request package from the project sponsor to the EPA for review and approval. On August 18, 2011, the EPA approved the ESA waiver request for the wetlands as delineated in the submitted package. However, the EPA has informed the District that it subsequently became aware of questions regarding the actual extent of wetlands on the referenced lots.

The EPA letter states, "We have recently been informed that the extent of the project area wetlands was not subject to verification through a U.S. Army Corps of Engineers issued jurisdictional determination (JD)." The letter continues: "If site wetlands are unexpectedly disturbed during construction of this project, our waiver approval would be invalid. Further, the RCSD#1 would be in violation of the ESA grant condition if it subsequently allowed this project to hook up to the federally-funded sewer treatment works constructed under Project Number C-34-745" (i.e., the District's sewage treatment plant in Orangeburg).

Therefore, as a condition of allowing the Patrick Farm project to connect to the District's sewerage system, the District requires the project sponsor to obtain and forward to the EPA and to the District a jurisdictional determination from the U.S. Army Corps of Engineers verifying the extent of the project area wetlands.

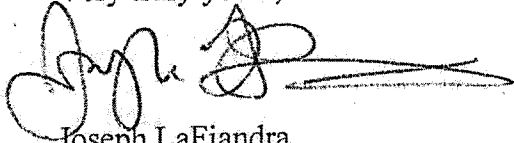
Mr. Anthony Mallia

Page 2

March 26, 2013

Please inform us of all developments in this project. If you have any questions, please contact this office at 845-365-6111.

Very truly yours,



Joseph LaFiandra  
Engineer II

Attachment

cc: D. Philipps                      M. Saber                      M. Dolphin  
Scott McKane, P.E. – Rockland County Department of Health  
Helen Kenny-Burrows – Rockland County Department of Planning  
Thomas M. Mascola – Rockland County Department of Law  
Michael Sadowski, P.E. – Town of Ramapo DPW  
Steven Ferreira – United States Environmental Protection Agency  
Dennis Rocks, P.E. – Leonard Jackson Associates  
Scenic Development, LLC – 3 Ashel Lane, Monsey, NY 10952

File: TOR 32.11-1-4 et al. – Patrick Farm  
ESA  
Reader



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

MAR 11 2013

Dianne T. Philipps, P.E.  
Executive Director  
Rockland County Sewer District No. 1  
4 Route 340  
Orangeburg, New York 10962

Dear Ms. Philipps:

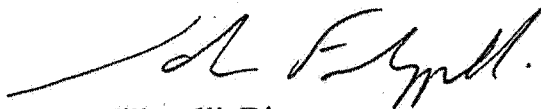
On March 22, 2011, you requested that the U.S. Environmental Protection Agency (EPA) waive the special condition placed on the Rockland County Sewer District No. 1 (RCSD#1) construction grant (Project Number C-36-745), restricting sewer connections from new development in environmentally sensitive areas (ESA). Specifically, your waiver request concerned the Patrick Farm project, a proposed 496 residence subdivision to be constructed on 208.5 acres in the Town of Ramapo [Tax Lots 3./12A1 (32.11-1-15 & 16), and 3./13A2 (32.11-1-4 & 14 and 32.14-2-3)].

On August 18, 2011, the EPA approved a partial waiver of the ESA special grant condition for this project. Our approval was based on the information that was provided in support of your request indicating that the proposed development would not infringe upon wetlands. As noted in our letter, the sewer connection restriction was to remain in effect for the wetlands on this site. Subsequently, EPA became aware of questions regarding the actual extent of wetlands on the referenced lots. Accordingly, on January 5, 2012, we notified you that the wetlands issue was being examined further, and the grant condition restriction remained in place for all site wetlands.

We have recently been informed that the extent of project area wetlands was not subject to verification through a U.S. Army Corps of Engineers issued jurisdictional determination (JD). Considering the questions about the extent of project area wetlands that have recently been raised, as well as the time that has passed since completion of the existing site delineation, we are concerned about the possible environmental ramifications if it is determined that the delineation included within your waiver request package is found to be inaccurate. If site wetlands are unexpectedly disturbed during construction of this project, our waiver approval would be invalid. Further, the RCSD#1 would be in violation of the ESA grant condition if it subsequently allowed this project to hook up to the federally-funded sewer treatment works constructed under Project Number C-34-745. Accordingly, we believe it would be in the best interest of both the project sponsor and the RCSD#1 for the project sponsor to obtain a JD from the ACE, confirming the current extent of wetlands on these parcels. This JD should then be sent to EPA for our review and determination of whether a revised waiver approval will be needed.

We appreciate your assistance in this complicated matter. If you have any questions, or would like additional information, please feel free to contact Steven Ferreira of my staff at (212) 637-3759.

Sincerely,



John Filippelli, Director  
Clean Air and Sustainability Division

cc: Scenic Development, L.L.C.  
Dennis Rocks, Leonard Jackson Associates





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

MAR 13 2013

Susan H. Shapiro, Esq.  
21 Perlman Drive  
Spring Valley, NY 10977

Dear Ms. Shapiro:

This is in response to your January 10, 2013 letter to the U. S. Environmental Protection Agency Region 2 (EPA) Administrator Judith Enck, which has been referred to my office for response. Your letter concerns the proposed Patrick Farms subdivision, to be constructed in the Town of Ramapo, Rockland County, New York. This project was the subject of an August, 2011 Environmentally Sensitive Area (ESA) special grant condition waiver approval issued by EPA Region 2, which allowed the project to connect to the federally-funded Rockland County SD#1 (RCSD#1) sewage treatment works. More specifically, your letter states that the wetlands delineation prepared in support of this project was not subject to a Jurisdictional Determination (JD) by the US Army Corps of Engineers (ACE), and that materials included with the waiver package provided to EPA by the RCSD#1 were therefore misleading and inaccurate. In consideration of the above, you request that EPA withdraws its waiver approval for this project

While the wetlands delineation was not subject to a JD, it did undergo scrutiny by the ACE as part of an enforcement action that began in 2004 and ended in 2007, which confirmed the boundaries of wetlands in regards to the proposed development as it existed at that moment in time. After a review of the information you provided in support of your letter, in order to avoid the potential ramifications of a violation of the ESA special grant condition should wetlands be filled as part of this project, we have strongly recommended to the RCSD#1 that the project sponsor obtain a JD from the ACE, and that it then be submitted to EPA for consideration and determination of whether a revised waiver approval will be needed (see enclosure).

We appreciate your interest in this matter. If you have any questions, or require additional information, please contact Steven Ferreira of my staff at x-3759.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Judy-Ann Mitchell".

Judy-Ann Mitchell, Chief  
Sustainability & Multimedia Programs Branch

Enclosure



0714

100

100

bcc: J. Cantilli, CWD-WMB  
D. Montella, CWD-WMB  
G. Musumeci, CASD-SMP  
S. Ferreira, CASD-SMBP  
J. Filippelli, CASD  
D. Boykin, OPM (R2—13-000-0412-RA)  
S. Mason-Scott, CASD





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1868

MAR 11 2013

Dianne T. Philipps, P.E.  
Executive Director  
Rockland County Sewer District No. 1  
4 Route 340  
Orangeburg, New York 10962

Dear Ms. Philipps:

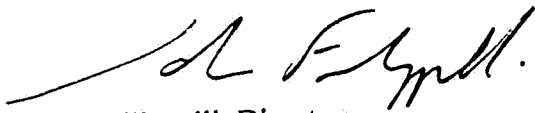
On March 22, 2011, you requested that the U.S. Environmental Protection Agency (EPA) waive the special condition placed on the Rockland County Sewer District No. 1 (RCSD#1) construction grant (Project Number C-36-745), restricting sewer connections from new development in environmentally sensitive areas (ESA). Specifically, your waiver request concerned the Patrick Farm project, a proposed 496 residence subdivision to be constructed on 208.5 acres in the Town of Ramapo [Tax Lots 3./12A1 (32.11-1-15 & 16), and 3./13A2 (32.11-1-4 & 14 and 32.14-2-3)].

On August 18, 2011, the EPA approved a partial waiver of the ESA special grant condition for this project. Our approval was based on the information that was provided in support of your request indicating that the proposed development would not infringe upon wetlands. As noted in our letter, the sewer connection restriction was to remain in effect for the wetlands on this site. Subsequently, EPA became aware of questions regarding the actual extent of wetlands on the referenced lots. Accordingly, on January 5, 2012, we notified you that the wetlands issue was being examined further, and the grant condition restriction remained in place for all site wetlands.

We have recently been informed that the extent of project area wetlands was not subject to verification through a U.S. Army Corps of Engineers issued jurisdictional determination (JD). Considering the questions about the extent of project area wetlands that have recently been raised, as well as the time that has passed since completion of the existing site delineation, we are concerned about the possible environmental ramifications if it is determined that the delineation included within your waiver request package is found to be inaccurate. If site wetlands are unexpectedly disturbed during construction of this project, our waiver approval would be invalid. Further, the RCSD#1 would be in violation of the ESA grant condition if it subsequently allowed this project to hook up to the federally-funded sewer treatment works constructed under Project Number C-34-745. Accordingly, we believe it would be in the best interest of both the project sponsor and the RCSD#1 for the project sponsor to obtain a JD from the ACE, confirming the current extent of wetlands on these parcels. This JD should then be sent to EPA for our review and determination of whether a revised waiver approval will be needed.

We appreciate your assistance in this complicated matter. If you have any questions, or would like additional information, please feel free to contact Steven Ferreira of my staff at (212) 637-3759.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Filippelli", with a long horizontal line extending to the left.

John Filippelli, Director  
Clean Air and Sustainability Division

cc: Scenic Development, L.L.C.  
Dennis Rocks; Leonard Jackson Associates

MILTON B. SHAPIRO  
SUSAN HITO SHAPIRO  
*Attorneys at Law*

21 Perlman Drive  
Spring Valley, New York 10977

Phone: 845-371-2100  
Fax: 845-371-3721  
E-mail: [mbsst@ourrocklandoffice.com](mailto:mbsst@ourrocklandoffice.com)

1/10/13

Ms. Judith Enck  
Regional Administrator, Region 2  
Environmental Protection Agency  
290 Broadway  
New York, NY 10007-1866  
Fax: (212) 637-3526/ [enck.judith@epa.gov](mailto:enck.judith@epa.gov)

RE: ACOE Wetland Delineation/Jurisdiction Determination  
PATRICK FARM PROJECT  
Town of Ramapo, Rockland County, New York

Dear Judith:

On 10/27/10, I originally contacted about serious environmental concerns raised by the proposed 497 unit high density multi-family housing project on Patrick Farm which overlays the headwaters and recharge basin of the interstate Ramapo-Mahwah River Basin Sole Source Aquifer System, designated by the US EPA on 8/28/1992 ("SSA") which supplies drinking water, via public and private wells, to more than 1 million people in New York and New Jersey.

On January 16, 2013 the Planning Board of the Town of Ramapo has scheduled Final Site Plan Approval at 6:30 PM (*see attached notice*). Based on historical actions, the Town of Ramapo's Planning Board will grant final approval on January 16, 2013, without question, despite the 12 pending SEQR lawsuits; and the January 7, 2013 NYS DEC hearing to determine whether an adjudicatory hearing is warranted.

Upon obtaining Ramapo's approval of final subdivision and site plan the Applicant will move quickly to clear cut, re-grade, make impermeable and cause irreparable harm to the pristine re-charge basin at the headwaters of the Ramapo-Mahwah SSA.

Therefore, I am bringing to you attention the recent confirmation from the Army Corps of Engineers (ACOE) that, despite the Applicant's continued assurances, **no approved wetland delineation or Jurisdictional Determination from ACOE exists for the Patrick Farm.**

"[] in response to your Freedom of information Act request regarding all ACOE documents

confirming the delineated and flagged boundaries of all Federal Jurisdictional wetlands on the Patrick Farm site prepared in accordance with methodology provided in 1987 ACOE wetlands Delineation Manual and later editions. This is additional information to documents requested in FOIA FA-13-0035 requested on December 06, 2012.

Please be advised that no Jurisdictional Determination had been done."  
(see the ACOE attached letter dated 1/7/13).

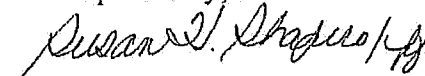
Despite this, the Applicant, Scenic Development, claimed in their EIS and continues to assert, both in writing and at hearings, that ACOE approved their wetland delineation. Therefore, I am putting you and other agencies on notice that due to the Applicant's misrepresentation in the EIS, the Town of Ramapo's SEQR Finding Statement and Review contain inaccurate information and cannot be relied upon by your agency as a basis for any approvals. Numerous permit applications contain the incorrect information regarding approved wetlands delineations.

For example, the ESA waiver application dated January 14, 2011 from CEA Engineer contained false information regarding wetland delineations. On page 3 the Applicant purports to have delineated any wetlands on the site and stated "Both the NYS DEC and the ACOE confirmed and subsequently reconfirmed the wetland delineations." This is entirely false, since no because no such delineation(s) exists.

Due to this misrepresentation the EPA cannot confirm "that the proposed development will not infringe upon delineated wetlands" (see attached letter: 8/18/11 EPA Bricke to RCSewer Phillips)

Therefore, the already granted approvals based on the Applicant's claimed wetland delineation or Jurisdictional Determination should be withdrawn. I am respectfully requesting that you withdraw any approvals immediately and place the Town of Ramapo and the Planning Board on notice of such, prior to the January 16<sup>th</sup> Planning Board meeting.

Respectfully,



Susan H. Shapiro, Esq.

Cc: Dan Montella, EPA montella.daniel@epa.gov  
Steve Ferreiri, EPA ferreiri.steve@epa.gov  
John Cantilli, EPA cantilli.john@epa.gov  
Judy-Ann Mitchell, EPA mitchell.judy-ann.epa.gov  
Michael Sassi, Department of Transportation msassi@dot.state.ny.us  
Willie Janeway, NYS DEC wcjanewa@gw.dec.state.ny.us  
Scott Ballard, NYS DEC rsballar@gw.dec.state.ny.us  
Vincent Altieri, Rockland County Drainage AltieriV@co.rockland.ny.us  
Diane Philipps, Rockland County Sewer District No. 1 fax: (845) 365-6686



Dear Sir or Madam:

This letter is to advise you we have an application pending before the **PLANNING BOARD** of the **TOWN OF RAMAPO** concerning property within 500 feet of your property.

**This meeting will be held on: Wednesday, January 16, 2013**

**At:** Town of Ramapo, 237 Route 59, Suffern, New York

**Time:** 8:00 p.m.

We are enclosing a portion of the Legal Notice, which was published in the Rockland County Times, and hope that it will answer your immediate questions concerning the application. Also attached is a drawing showing the proposed site (indicated by the cross hatched area) and the surrounding property (indicated by the lighter area).

There is no requirement that you attend this meeting. However, it is your right to appear to support or object to the case before the **PLANNING BOARD**, or to have a duly authorized representative or attorney appear on your behalf.

Should you have any questions about the application, you may stop by the Town of Ramapo Planning Department and inspect the file. You may also, of course, contact the undersigned to answer your questions.

Scenic Development LLC

Name of Applicant or Representative

Courts have ruled that it is improper for anyone to contact any members of the **PLANNING BOARD** before or after the hearing.

**NOTICE OF HEARING**

**Leonard Jackson PE PLLC dba Leonard Jackson Associates**

**NOTICE IS HEREBY GIVEN** that a Public Hearing will be held by the Planning Board of the Town of Ramapo:

**At:** Town of Ramapo, 237 Route 59, Suffern, New York

**Date:** Wednesday, January 16, 2013

**Time:** 8:00 p.m.

### **LEGAL NOTICE**

Application of Scenic Development, LLC, 3 Ashel Lane, Monsey, New York for a Final Site Plan Approval of a drawing entitled Patrick Farm Volunteer Housing consisting of 24 residential rental units for community service volunteers on 5.065 acres. The property in question is located on the east side of Route 202, 0 feet south of Route 306, which is known and designated on the Ramapo Tax Map as Sections 32.11-1-12, 32.11-1-13, 32.11-1-14, 32.11-1-16, 32.11-1-2, 32.11-1-3, 32.11-1-4, 32.15-2-1 and 32.14-2-3, in an R40 and MR8 zones.

Application of Scenic Development, LLC, 3 Ashel Lane, Monsey, New York for a Final Site Plan Approval of a drawing entitled Patrick Farm Condominiums, consisting of 314 market rate Townhouses and 72 "work force flats," on 51.459 acres. The property in question is located on the east side of Route 202, 0 feet south of Route 306, which is known and designated on the Ramapo Tax Map as Sections 32.11-1-12, 32.11-1-13, 32.11-1-14, 32.11-1-16, 32.11-1-2, 32.11-1-3, 32.11-1-4, 32.15-2-1 and 32.14-2-3, in an R40 and MR8 zones.

Copies of the above application are on file at the Town of Ramapo Planning Department and may be reviewed by interested parties during normal office hours.

**By Order Of**  
**Town of Ramapo Planning Board Chairman, Sylvain Klein**

Dated at Suffern, New York  
January 4, 2013





DEPARTMENT OF THE ARMY  
NEW YORK DISTRICT, CORPS OF ENGINEERS  
JACOB K. JAVITS FEDERAL BUILDING  
NEW YORK, N.Y. 10278-0090

REPLY TO  
ATTENTION OF

JAN 07 2013

Office of Counsel

SUBJECT: Freedom of Information Act Request No. FA-12-0040

Deborah Seidman Munitz  
5 Rose Hill Road  
Suffern, NY 10901

Dear Ms. Munitz:

This is in response to your Freedom of Information Act request regarding all ACOE documents confirming the delineated and flagged boundaries of all Federal Jurisdictional wetlands on the Patrick Farm site prepared in accordance with methodology provided in 1987 ACOE wetlands Delineation Manual and later editions. This is additional information to documents requested in FOIA FA-13-0035 requested on December 06, 2012.

Please be advised that no Jurisdictional Determination had been done.

A "no records" response is an "adverse determination" under 5 U.S.C. 552(a)(6)(A)(i) since the requester did not receive the documents it requested. Oglesby v. Department of the Army, 920 F2d 57, 67 (D.C. Cir. 1990). As a result, a requester wishing to challenge the adequacy of the search must have the opportunity to appeal a "no records" response to the head of the agency. In the present situation, the undersigned is the Initial Denial Authority for "no records" denial. You have the right to appeal this determination through our office to the Secretary of the Army.

An appeal must be received within 60 days of the date of this letter. The envelope containing the appeal should bear the notation "Freedom of Information Act Appeal" and should be sent to:

U.S. Army Engineer District, New York,  
ATTN: Office of Counsel, Room 1837  
26 Federal Plaza  
New York, NY 10278

According to applicable regulations, there are no assessable fees.

Sincerely,

Lorraine Lee  
District Counsel  
Initial Denial Authority  
Freedom of Information Act Officer

**New York State Department of Environmental Conservation**

**Division of Environmental Permits, Region 3**

21 South Putt Corners Road, New Paltz, New York 12561-1620

Phone: (845) 256-3000 • FAX: (845) 255-4659

Website: [www.dec.ny.gov](http://www.dec.ny.gov)



Joe Martens  
Commissioner

January 3, 2013

YECHIEL LEBOVITS  
SCENIC DEVELOPMENT, LLC  
3 ACHEL STREET  
MONSEY, NY 10952

RE: DEC Application No.'s: 3-3926-00570/00002 **DAM SAFETY**  
3-3926-00570/00004 **STREAM DISTURBANCE**  
3-3926-00570/00006 **WATER QUALITY CERTIFICATION**  
Patrick Farm Development Project - 497 Residential Units on 208 Acres  
Town of Ramapo, Rockland County  
**NEED FOR ADDITIONAL INFORMATION**

Dear Mr. Lebovits:

On October 12, 2012, the permit applications related to the above referenced project were deemed Complete, at which time the Department commenced its technical review of the permit applications. One issue identified through this technical review is the extent of the permitting requirements of the United States Army Corp of Engineers (USACE) associated with the placement of fill in waters of the United States. This is relevant for DEC permitting review purposes because the extent of federal permitting determines the scope of the Department's review under the Section 401 Water Quality Certification program (see attachment).

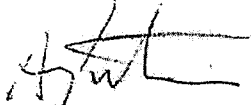
To date, the Department is in receipt of three letters from USACE regarding the Patrick Farm project (all attached). These letters cumulatively, however, do not appear to constitute a jurisdictional determination by USACE regarding the entire project as proposed. The two letters dated January 5, 2011, and November 28, 2011, respectively, appear to represent USACE review of only discreet portions of the overall project (i.e., various proposed stream crossings). The February 1, 2007, letter appears to represent USACE confirmation of the extent of the federally regulated areas on-site. The February 1, 2007, letter, however, does not depict the presently proposed project, but rather shows a project of lesser scale. Additionally, none of the letters appear to address the fill placement associated with the proposed dam reconstruction.

Accordingly, please obtain a jurisdictional determination from USACE regarding the full scope of the project as currently proposed and provide the Department a copy of such determination by **February 1, 2013**. This information will allow the Department to definitively determine the necessary scope of its review under the Section 401 Water Quality Certification program. Please note that no final permitting decision can be made until this information is received, and further information may be requested as the Department continues to review the project.

DEC Application No. 3-3926-00570/00002  
Patrick Farm Development Project  
January 3, 2013

Should you have any questions regarding the above, please contact the undersigned at (845)256-3096, or Scott Ballard, at (845) 256-2250.

Sincerely,



Adam Peterson  
Environmental Analyst

Enclosures: April 19, 2012, Memorandum Re: Section 401 Water Quality Certification  
February 1, 2007, Letter from USACE  
January 5, 2011, Letter from USACE  
November 28, 2011, Letter from USACE

Cc w/enclosures: Town of Ramapo Town Board  
Town of Ramapo Planning Board

Ecc w/enclosures: Mark Chertok, Sive Paget & Risel  
Joyce Giudice, DEC OGC  
Scott Ballard, DEC DEP  
Dennis Rocks, Leonard Jackson Associates  
Mike Scarano, P.E., USACE  
Brian Drumm, DEC  
Syed Alam, DEC

**MILTON B. SHAPIRO**

**SUSAN H. SHAPIRO**

**ATTORNEYS AT LAW**

21 PERLMAN DRIVE • SPRING VALLEY, NEW YORK 10977

(845) 371-2100  
(845) 371-3721 - FAX  
mbs@ourrocklandoffice.com

November 15, 2012

Richard Tomer  
Chief, Regulatory Branch  
Department of the Army  
NY District, Corps of Engineers  
Jacob K. Javits Federal Building  
New York, New York 10278-009

Re: Patrick Farm Development Site, Town of Ramapo, Rockland County, New York,  
Subject of Prior Cease & Desist Order,  
Enforcement Case No. 2004-047 (NAN-2004-505)

Dear Chief Tomer:

We understand how busy your office must be in light of the recent devastation by Hurricane Sandy, and would not bother you but for the time sensitivity of what we believe is a very straightforward request. The State Court reviewing the Patrick Farm Development Project simply needs to understand whether or not the Army Corps of Engineers (ACOE) ever issued a jurisdictional determination for the Patrick Farm Project, which is located in the Town of Ramapo, New York (Town). Final papers must be submitted to the Rockland County Supreme Court in the first week of December.

We respectfully submit that ACOE has a responsibility to set the record straight on this very narrow issue. In order to aid the ACOE in responding to this specific request, we have summarized the background information and the record; while this letter, its attachment and the exhibits to the letter and its attachment contain extensive background information, ultimately, we are asking ACOE to confirm a very basic fact, which should take little time to address.

In sum, the Applicant sponsoring the Project, Scenic Development, LLC, has consistently represented to the Town and the Court that ACOE has issued a Jurisdictional Determination for the current Proposed Project of 497 homes on the entirety of the 200+ acre property. The Applicant has argued that its purported ACOE jurisdictional determination establishes that the Project has been planned in accordance with the New York State Environmental Quality Review Act (SEQRA).

The Village of Pomona, Dr. Sonya Shapiro and Milton Shapiro (adjacent landowners), and ROSA 4 Rockland, Inc. (Ramapo Organized for a Sustainable and Safe Aquifer - an organization formed to protect water and other environmental resources in Rockland County), believe that the Record shows that ACOE never issued a Jurisdictional Determination.

Recent Appellate Court decisions require the lower Court to determine whether the Project was approved in conformance with SEQRA's requirements. Based on the Applicant's representations, the resolution of this issue will in large part turn on whether ACOE ever issued a Jurisdictional Determination. As such, again, the Court simply needs to understand whether or not ACOE issued a Jurisdictional Determination for the Project.

### The Issues

One of the critical issues in the judicial SEQRA review will be whether ACOE actually confirmed the Applicant's delineation of all federally regulated wetlands (ACOE jurisdictional wetlands) and other waters of the United States on the Patrick Farm site during SEQRA review, as required by the June 25, 2008 SEQRA Final Scoping Document (See Exhibit 1, p. 1 & p. 5-Section III (c) (3)). Confirmation of the location and boundaries of all on-site wetlands was considered particularly important because the site is located within the headwaters of the Mahwah River watershed and includes vital wetlands that filter pollution, help recharge the underlying federally designated sole-source aquifer and also prevent downstream flooding.

The scope of ACOE review is an integral issue in the SEQRA challenge because several experts, including a former ACOE Project Manager whose responsibilities included jurisdictional determinations, concluded that:

- The Applicant failed to identify all on-site ACOE jurisdictional wetlands in its SEQRA submissions;
- The Applicant failed to provide any ACOE documentation confirming on-site ACOE wetland locations and boundaries, as required by the SEQRA Final Scoping Document, or that ACOE had otherwise authorized this Proposed Project;
- The failure to identify ACOE jurisdictional wetlands was not a mere technicality, as the Proposed Project shows plans to disturb and build in some of the unidentified ACOE wetland areas. See Exhibit 2 - Aquatic Resource Review maps prepared by Ms. K. Copenhagen - former ACOE wetland delineator, which identify potential impacts within the wetland areas that were undisclosed; Exhibit 3 - Wetland Disturbance Map prepared by David Clouser & Associates, which identifies proposed construction in areas previously documented - but not identified by the applicant - to contain ACOE wetlands; and Exhibit 4 - see pink hatched area next to pond which shows a large wetland area identified by ROSA's experts which has not yet been reviewed or delineated by ACOE.<sup>1</sup>

Moreover, as ACOE documents show, the Applicant actually withdrew an October 2008 request for ACOE review of the Proposed Project when Dr. Christopher Mallery of ACOE notified

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<sup>1</sup> Complete affidavits of these experts which were prepared in connection with the judicial proceedings are included as Exhibits 14 & 15 to this letter. We have summarized the finding so you do not have to read these detailed affidavits; however, they are provided here for your reference if desired.



Applicant that further information concerning jurisdictional issues would be required for the requested authorization. (See Exhibit 5 – Dr. Mallery’s administrative Memorandum for Record, April 18, 2011).

Finally, and most disturbing, is that, despite this April 18, 2011 ACOE Memorandum for Record (Exhibit 5), which shows there was no ACOE review of this Proposed Project, the Applicant claims in its December 22, 2009 Final Environmental Impact Statement (FEIS) that “Communication with the Corps of Engineers on October 2, 2009 confirmed that the Corps of Engineers, New York District office has approved the delineation of the federally regulated wetlands and other waters of the United States on the Patrick farm development and verified that the activities associated with the project are authorized under Nationwide Permit (NWP) 29.” (See Exhibit 6 – Comment and Response 3.3-8 of the FEIS)

At no time did the Developer disclose to the Town, the public or to Rockland County agencies, which had expressed concerns over possible impacts to ACOE jurisdictional wetlands, that ACOE was requiring additional review. Instead, **the Developer, in our opinion, misled the Town, the public and the Rockland County agencies into believing that it had obtained approval of the wetland delineation and authorization from the Corps for the proposed 497-unit Proposed Project.**

The Town relied on the Developer’s misrepresentation of ACOE approval of federal wetland delineation and project authorization in its SEQRA findings.

Now that this issue is before the Court, the ACOE should settle this issue by simply stating whether or not it issued a Jurisdictional Determination.

We respectfully submit that it would be in the public interest for ACOE to provide a Jurisdictional Determination of the locations and boundaries of all federal jurisdictional wetlands on the Patrick farm site (as the New York State Department of Environmental Conservation has done with respect to on-site NYS wetlands). **Our current request to you is to clarify the precise review made by ACOE in connection with this 497-unit Proposed Project during the SEQRA review which occurred between June 2008 and January 25, 2010.**

The attachment to this letter contains further details related to this matter in the form of a “summary of findings” and we have included considerable documentation for your reference in the form of relevant exhibits to this letter and attachment.

### *Conclusion*

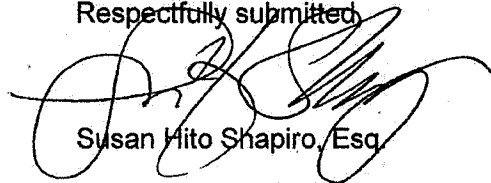
For all of the above reasons, we are requesting that ACOE confirm that during the time period of the SEQRA review:

- 1) That ACOE did not verify the delineations and boundaries of ALL on-site federal jurisdictional wetlands; and,
- 2) That ACOE advised Applicant that further review was warranted in order for ACOE to determine that the expanded project (i.e., the 497 housing unit project) was in fact authorized under a nationwide permit and that the Applicant declined this further review of the expanded project.

As stated above this issue will soon be the subject of a judicial SEQRA review. We are only requesting a short letter confirming the above two points for the period covering the SEQRA review which ended on January 25, 2010.

Note: Please do not confuse these matters with other more recent communications and permits related to a small limited portion of the site related to the expansion of a culvert crossing Rte. 202 that was requested later by the NYS DOT and is not a subject of this request.

Respectfully submitted,



Susan Hito Shapiro, Esq.

On behalf of Dr. Sonya and Milton B. Shapiro;  
The Village of Pomona; and ROSA 4 Rockland, Inc.  
(Ramapo Organized for a Sustainable and Safe Aquifer)

cc: William Janeway, NYS DEC  
Judith Enck, EPA Regional Administrator  
Town of Ramapo Town Board  
Town of Ramapo Planning Board  
New York State Senator David Carlucci  
New York State Assemblywoman Ellen Jaffee  
New York State Assemblyman Kenneth Zebrowski  
Rockland County Department of Planning

2  
CORRESPONDENCE  
CONTROL OFFICE

2017 NOV 26 AM 11:41



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

AUG 18 2011

Dianne T. Philipps, P.E.  
Executive Director  
Rockland County Sewer District No. 1  
4 Route 340  
Orangeburg, New York 10962

Dear Ms. Philipps:

This is in response to your March 22, 2011 request to the U.S. Environmental Protection Agency (EPA) for a waiver from the special condition placed on the Rockland County Sewer District No. 1 construction grant (Project Number C-36-745), restricting sewer connections from new development in environmentally sensitive areas (ESAs). Specifically, this request concerns the "Patrick Farm" subdivision, to be constructed on Tax Lots 3./12A1 (32.11-1-15 & 16), and 3./13A2 (32.11-1-4 & 14 and 32.14-2-3), located in the Town of Ramapo, Rockland County, New York. According to the documentation provided in support of this request, the proposed project involves the construction of 496 residences, including 86 single-family residences and 410 multi-family residences, with associated driveways, sidewalks and roadways, on 208.5 acres.

We have carefully evaluated the information you have provided us. This includes the following plans:

- ♦ "Layout Plan (1 of 2), Patrick Farm: a) Subdivision b) Condominiums c) Volunteer Housing, Town of Ramapo, Rockland County, New York," dated May 12, 2010, last revised on August 12, 2010, and prepared by Leonard Jackson Associates;
- ♦ "Layout Plan (2 of 2), Patrick Farm: a) Subdivision b) Condominiums c) Volunteer Housing, Town of Ramapo, Rockland County, New York," dated May 12, 2010, last revised on August 12, 2010, and prepared by Leonard Jackson Associates;
- ♦ "Regulatory Impact Area Map (1 of 2), Patrick Farm: a) Subdivision b) Condominiums c) Volunteer Housing, Town of Ramapo, Rockland County, New York," dated June 24, 2010, last revised on August 12, 2010, and prepared by Leonard Jackson Associates;
- ♦ "Regulatory Impact Area Map (2 of 2), Patrick Farm: a) Subdivision b) Condominiums c) Volunteer Housing, Town of Ramapo, Rockland County, New York," dated June 24, 2010, last revised on August 12, 2010, and prepared by Leonard Jackson Associates;
- ♦ "Mitigation Plan, Patrick Farm, Town of Ramapo, Rockland County, New York," dated June 29, 2010, last revised on January 28, 2011, and prepared by both Leonard Jackson Associates and Carpenter Environmental Associates, Inc.;

Internet Address (URL) • <http://www.epa.gov>

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 50% Postconsumer content)

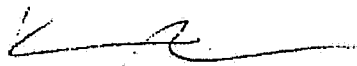
- ♦ "Wetland Location Map, Scenic Development, LLC, Town of Ramapo, Rockland County, New York," dated October 22, 2009, unrevised, and prepared by Atzl, Scatassa & Zigler P.C.; and
- ♦ "Ecological Communities, KLM Properties, City of Ramapo, Rockland County, New York," dated August 24, last revised on June 23, 2010, and prepared by Carpenter Environmental Associates, Inc.

The information provided indicates that the proposed development will not infringe upon delineated wetlands. Therefore, I approve a partial waiver of the grant condition for this project as noted in the above site plans. Please note however, that the sewer connection restriction will remain in effect for the wetlands on this site. Any modification to this project resulting in disturbance to site wetlands will require a resubmittal of this application to the EPA for a revised determination. Moreover, this waiver does not relieve the property owner from compliance with any other federal, state, or local requirements.

As part of a national effort to sustain healthier families, cleaner communities, and a stronger America, EPA would like you to inform the developers, as well as their consultants/contractors, about alternative/green building materials and practices as well as energy- and water-efficient products, and has enclosed *U.S. EPA Region 2 Green Recommendations*. Some of these recommendations are directly applicable to this project while some may be applicable to other projects. Please feel free to share the information.

We commend efforts to use green building/energy-efficient/water-efficient products and would appreciate being made aware of their usage. If you have any questions concerning this matter or would like additional information, please feel free to contact Steven Ferreira of my staff at (212) 637-3759.

Sincerely,



Kevin Bricke, Acting Director  
Division of Environmental Planning and Protection

Enclosure

cc: Scenic Development, L.L.C.  
Dennis Rocks, Leonard Jackson Associates

## U.S. EPA Region 2 Green Recommendations<sup>1</sup>

### Recommendations:

To the maximum extent possible, projects are encouraged to use local and/or recycled materials; to recycle materials generated onsite; and to utilize low emissions technology and fuels. Further, they should use, to the extent feasible, renewable energy (including, but not limited to solar, wind, geothermal, biogas, and biomass) and energy efficient technology in the design, construction, and operation of transportation, building, and infrastructure projects.

- **ENERGY STAR/Multi-media green building and land design practices**  
Require green building practices which have multi-media benefits, including energy efficiency, water conservation, and healthy indoor air quality. Apply building rating systems and tools, such as Energy Star, Energy Star Indoor Air Package, and Water Sense for stimulus funded building construction. Third party high-bar, multimedia standards should be required for building construction and land design (LEED and Sustainable Sites Initiative, Collaborative for High Performance Schools (CHPS), or local equivalent).  
<http://www.usgbc.org/DisplayPage.aspx?CMSPageID=64>  
[http://www.energystar.gov/index.cfm?c=business.bus\\_bldgs](http://www.energystar.gov/index.cfm?c=business.bus_bldgs)  
[http://www.energystar.gov/index.cfm?c=bldrs\\_lenders\\_raters.nh\\_jap](http://www.energystar.gov/index.cfm?c=bldrs_lenders_raters.nh_jap)
- **Encourage water conservation in building construction**  
Promote the use of water-efficient products to be used in new building construction through the use of WaterSense-labeled products and the use of contractors certified through a WaterSense-labeled program. <http://www.epa.gov/watersense/water/fed-agency.htm>
- **Encourage Low Impact Development to help manage storm water**  
Low Impact Development (LID) is an approach to land development (or re-development) that works with nature to manage storm water as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treat storm water as a resource rather than a waste product. <http://www.epa.gov/nps/lid/>
- **Alternative and Renewable Energy**  
The Department of Energy's "Green Power Network" (GPN) provides information and markets that can be used to supply alternative generated electricity. The following link identifies several suppliers of renewable energy.  
[http://apps3.eere.energy.gov/greenpower/buying/buying\\_power.shtml?state=NJ](http://apps3.eere.energy.gov/greenpower/buying/buying_power.shtml?state=NJ)

<sup>1</sup> "Green" here means environmentally sound practices in general and is not equivalent to the specific "green infrastructure" requirements in the American Recovery and Reinvestment Act (ARRA). Please note that this list is not meant to be all inclusive.

- **Ensure clean diesel practices**

Implement diesel controls, cleaner fuel, and cleaner construction practices for all on- and off-road equipment used for transportation, soil movement, or other construction activities, including:

- 1) Strategies and technologies that reduce unnecessary idling, including auxiliary power units, the use of electric equipment, and strict enforcement of idling limits;
- 2) Use of ultra low sulfur diesel fuel in nonroad applications ahead of the mandate; and
- 3) Use of the cleanest engines either through add-on control technologies like diesel oxidation catalysts and particulate filters, repowers, or newer, cleaner equipment

Encourage entities to consider adopting contract specifications requiring advanced pollution controls and clean fuels. A model spec is online at (applies to both on and non-road engines):

<http://www.northeastdiesel.org/pdf/NEDC-Construction-Contract-Spec.pdf>

Additional Information: <http://www.epa.gov/diesel/construction/contract-lang.htm>

How to guide: <http://www.mass.gov/dep/air/diesel/connetro.pdf>

- **Promote the use of recycled materials in highway and construction projects**

Many industrial and construction byproducts are available for use in road or infrastructure construction. Use of these materials can save money and reduce environmental impact. The Recycled Materials Resource Center has developed user guidelines for many recycled materials and compiled existing national specifications.

<http://www.recycledmaterials.org/tools/uguidelines/index.asp>

<http://www.recycledmaterials.org/tools/uguidelines/standards.asp>

<http://www.epa.gov/osw/conservc/rtr/imr/index.htm>

- **Encourage safe reuse and recycling of construction wastes**

Promote reuse and recycling at the 50% (by weight) level for building, road, and bridge project construction and demolition debris wastes. The *Federal Green Construction Guide for Specifiers* includes a construction waste management specification.

[http://www.wbdg.org/design/greenspec\\_msl.php?s=017419](http://www.wbdg.org/design/greenspec_msl.php?s=017419)

- **Encourage sustainable storm water management at building sites**

Implement site planning, design, construction, and maintenance strategies to maintain or restore, to the maximum extent technically feasible, the predevelopment hydrology of the building site with regard to the temperature, rate, volume, and duration of flow.

[http://cfpub.epa.gov/npdes/home.cfm?program\\_id=298](http://cfpub.epa.gov/npdes/home.cfm?program_id=298)

Consider designs for storm water management on compacted, contaminated soils in dense urban areas: <http://www.epa.gov/brownfields/publications/swdp0408.pdf>.

- **Encourage cost-efficient, environmentally friendly landscaping**

EPA's GreenScapes program provides cost-efficient and environmentally friendly solutions for landscaping. Designed to help preserve natural resources and prevent waste and pollution, GreenScapes encourages companies, government agencies, other entities, and homeowners to make more holistic decisions regarding waste generation and disposal and the associated impacts on land, water, air, and energy use.

<http://www.epa.gov/osw/conservc/rtr/greenscapes/index.htm>

- **Incorporate onsite energy generation and energy efficient equipment upgrades into projects at drinking water and wastewater treatment facilities**  
 Promote the use of captured biogas in combined heat and power systems and/or renewable energy (wind, solar, etc.) to generate energy for use onsite as well as upgrades to more energy efficient equipment (pumps, motors, etc.)  
[http://www.epa.gov/waterinfrastructure/bettermanagement\\_energy.html](http://www.epa.gov/waterinfrastructure/bettermanagement_energy.html)
- **Encourage land development in brownfield and infill sites**  
 Cleaning up and reinvesting in these properties takes development pressures off of undeveloped, open land, and both improves and protects the environment. These sites are often "infrastructure-ready," eliminating the need to build new roads and utility lines which are necessary in undeveloped land.  
<http://www.epa.gov/brownfields/>
- **Use the Integrated Design process on building developments**  
 Current procurement practices tend to separate out development into distinct stages that discourage communication across the project lifecycle. The Integrated Design process calls for the active and continuing engagement of all stakeholders throughout the building design, development, and construction phases including the owners, architects, engineers, building department officials, and other professionals. This process can help create a higher performing building at lower costs, allows for various building systems to work together, eliminates redundancy from overdesign and unnecessary capacity, and minimizes change orders during the construction phase. We encourage revising procurement practices so that it can use the Integrated Design process. [http://www.wbdg.org/design/engage\\_process.php](http://www.wbdg.org/design/engage_process.php)
- **Encourage use of Smart Growth and transit oriented development principles**  
 Smart Growth and transit oriented development (TOD) principles help preserve natural lands and critical environmental areas, and protect water and air quality by encouraging developments that are walkable and located near public transit.  
<http://www.epa.gov/smartgrowth>
- **Ensure environmentally preferable purchasing**  
 Promote markets for environmentally preferable products by referencing EPA's multi-attribute Environmentally Preferable Purchasing guidance. <http://www.epa.gov/epp>
- **Purchase 'green' electronics, and measure their benefits**  
 Require the purchase of desktop computers, monitors, and laptops that are registered as Silver or Gold products with EPEAT, the Electronics Product Environmental Assessment Tool ([www.epeat.net](http://www.epeat.net)). Products registered with EPEAT use less energy, are easier to recycle, and can be more easily upgraded than non-registered products. Energy savings, CO<sub>2</sub> emission reductions, and other environmental benefits achieved by the purchase, use and recycling of EPEAT-registered products can be quantified using the Electronics Environmental Benefits Calculator (<http://eerc.ra.utk.edu/ccpci/eebc/eebc.html>).

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- **Incorporate greener practices into remediation of contaminated sites**

Encourage or incentivize the use of greener remediation practices, including designing treatment systems with optimum energy efficiency; use of passive energy technologies such as bioremediation and phytoremediation; use of renewable energy to meet power demands of energy-intensive treatment systems or auxiliary equipment; use of cleaner fuels, machinery, and vehicles; use of native plant species; and minimizing waste and water use.

<http://clu.in.org/greenremediation/index.cfm>



MILTON B. SHAPIRO

SUSAN H. SHAPIRO

ATTORNEYS AT LAW

21 PERLMAN DRIVE • SPRING VALLEY, NEW YORK 10977

(845) 371-2100  
(845) 371-3721 - FAX  
mbs@ourrocklandoffice.com

1/14/13

Ms. Judith Enck  
Regional Administrator, Region 2  
Environmental Protection Agency  
290 Broadway  
New York, NY 10007-1866  
Fax: (212) 637-3526/ enck.judith@epa.gov

RE: PATRICK FARM PROJECT  
Town of Ramapo, Rockland County, New York  
No ACOE Wetland Delineation/Jurisdiction Determination  
Request for New ESA Waiver

Dear Judith:

After my last letter to you on 1/10/13 I spoke to Mr. Daniel Montella who advised me to get in touch with Ms. Grace Musumeci. she then referred me back to Mr. Steve Ferreira who suggested I submit our research regarding serious errors or misrepresentations in the applications submitted by the Applicant, Scenic Development, LLC (Scenic) to the EPA for an ESA waiver. The documentation submitted by Scenic omitted information regarding the waters and wetlands of the United States (WOUS) failed to confirm wetland delineations and omitted significant wetland areas. These misrepresentations were made in the application upon which the ESA waivers were granted.

On January 5, 2012 Chief Judy-Ann Mitchell of EPA Region 2 wrote Dianne Philipps of Rockland County Sewer District No. 1 that, *"Our approval was based on the information that was provided in support of your request that the proposed development would not infringe upon wetlands. . . [T]here is some dispute as to the extent of onsite wetlands on the above-noted parcels... if it is determined that wetlands will be impacted by the proposed project, a new waiver will be required."*

Therefore we are requesting that the EPA inform the Planning Board that a new waiver will be required prior to any final approvals being granted.

These same misrepresentations have been repeated in the underlying SEQR review and other applications made to Rockland County Drainage Agency (RCDA) Rockland County Sewer Department District No. 1 (RCSD), the Army Corps of Engineers (ACOE)





and New York State Department of Environmental Conservation (NYS DEC).

After extensive research and review of the proposed plans, applications, and documentation submitted by Scenic for the proposed development, it has become quite clear that **waters and wetlands of the United States** (WOUS) without any ACOE permits, an Approved Jurisdictional Determination (JD) or even an Preliminary JD. The maps submitted fail to show all the jurisdictional wetlands, therefore the various involved agencies could not have and do not have accurate information necessary to grant permits and enforce EPA regulations.

Below I will provide you with the is evidence in the record which confirms this conclusion and the responses by the ACOE to FOIA requests which confirmed that :

**NO jurisdictional determination had been done**” of the wetlands on the Patrick Farm site.<sup>1</sup> (Scenic never applied for or obtained an Approved Jurisdictional Determination, though they have made representations to the contrary.)

ACOE never received, reviewed or commented on the DEIS or FEIS.<sup>2</sup> (Scenic repeatedly states in the record that ACOE approved or commented on the EIS, yet ACOE never reviewed the DEIS and was removed from the interested parties service list.

Applicant intends to fill or otherwise impact Federal waters and wetlands.

#### NO ACOE WETLAND DELINEATIONS

ACOE confirmed that No Jurisdictional Determination had been done, in the application to the EPA for an ESA Waiver, yet Scenic incorrectly asserted that “. . . ACOE *confirmed and reconfirmed the wetland delineation.*”<sup>3</sup> Scenic has repeatedly misinformed the various agencies that ACOE confirmation exists, when it does not.

The ESA waiver was granted and other permits are in the process of being approved based on Scenic unsubstantiated claims of wetland confirmation and delineation by ACOE. The Rockland County Planning and Rockland County Drainage requested the Town of Ramapo, as Lead Agency required a ACOE JD.<sup>4</sup>

The ACOE JD was required as part of the Environmental Impact Statement Scoping and DEIS, "*The following reviews, permits and approval would be necessary to implement the action: Federal, US Army Corps of Engineers, \* Nationwide Permit (stormwater*

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<sup>1</sup> Exhibit A: ACOE 1/7/13 FOIA response

<sup>2</sup> Exhibit B: ACOE Feb 6, 2013 letter and Feb. 30, 2010 Email Jensen/Moran

<sup>3</sup> Patrick Farm ESA Waiver Request, prepared by CEA, submitted 1/14/11, p 3

<sup>4</sup> Patrick Farm FEIS Appendix A 3.3-8

<http://timmillerasociates.com/publicreview/patrickfarm/default.html>





discharge point) \*Wetlands Jurisdictional Determination"<sup>5</sup>

**“FEIS 3.3 Ecology Wetlands Comment 3.3-19 (Letter #16, Salvatore Corallo, Commissioner, County of Rockland Department of Planning, July 24, 2009):** *The proposed amendments must be reviewed by the United States Army Corps of Engineers so that they can evaluate **the Impact of the proposed residential density on the federal wetlands.**”*

This was never done. The Town accepted Scenic’s attorney’s opinion letter regarding a conversation with an ACOE enforcement officer as proof of an ACOE JD. Scenic’s attorney claims that a Nationwide Permit for 139 homes issued as part of closure to 2004 Cease and Desist action against Scenic, is an ACOE approval of the impact of the increased residential density of 497 homes.. The Town, as Lead Agency, erred when it approved an incomplete FEIS and Finding Statement without the required ACOE JD.

#### UNMAPPED WETLANDS

ACOE has never confirmed the applicants wetland maps and the submitted maps do not show the following wetlands remain unmapped and undelineated.

- wetlands that were the subject of a 2004 ACOE Cease and Desist order against Scenic for filling WOUS by trenching and damaging the dam without permits.<sup>6</sup>
- The “Pond” which due to the 2004 trenching and dam damages was significantly lowered and has become a large unmapped wetlands. RCDA has confirmed the Pond as a wetlands.
- wetlands areas on eastern side of the pond a grove of six 30”+ diameter willow trees;
- wetlands identified by the DEC representative during a walk through;
- wetlands identified by Ed Moran, the Town of Ramapo Engineer;
- wetlands identified on the NWI map;
- wetlands documented in CDRC notes and identified through photos which have been submitted to the DEC, ACOE and RCDA and other agencies showing unmapped wetland areas.

---

<sup>5</sup> Patrick Farm DEIS, Executive Summary p 1-42,  
[http://timmillerassociates.com/publicreview/patrickfarm/1.0\\_ExecSumm.pdf](http://timmillerassociates.com/publicreview/patrickfarm/1.0_ExecSumm.pdf) page 1-42)

<sup>6</sup> Exhibit C: Cease & Desist Order and Photos of trenching





Attached is a map showing all of these wetlands compiled by Andrew Willingham, P.E. , which identifies the unmapped wetlands and impacts the project will have on them.<sup>7</sup>

## PLANS TO FILL AND BUILD IN THE WETLANDS

Scenic has purposely kept ACOE in the dark with respect to the bulk of the plans for the development of this property which show they are planning to fill WOUS.

The maps submitted by Scenic show they are planning to construct structures, specifically: sanitary piping, retention and detention basins, housing, public roads, walkways and a playground within these unmapped wetlands areas. Exhibit E, attached hereto, was submitted to the DEC by ROSA (Ramapo Organized for a Sustainable Aquifer) and it clearly identifies areas where WOUS will be impacted by the proposed development.

RCDA commented that “ In accordance with Section 6.1.1 of the New York State Stormwater Management Design Manual (NYSSMDM), "Stormwater wetlands shall not be located within jurisdictional waters, including wetlands. *Contrary to this, an ACOE wetland has been proposed as a detention pond to control the increase in stormwater quantity due to the proposed impervious surfaces.*” Please review and revise as necessary. **Response 3.3-21:** No new stormwater pond is proposed within any NYSDEC jurisdictional waters. No wetland has been proposed as a detention pond.<sup>8</sup>

Scenic proposes to cut 225,675 cubic yards of soil and fill 224, 496 cubic yards, including areas adjacent to tributaries to the Class A Mahwah River and other WOUS.

The most recent maps provided to RCDA show the high water levels of the pond once the dam is repaired and indicates structures will be underwater.<sup>9</sup>

## DEIS NOT RECEIVED, REVIEWED OR COMMENTED ON BY ACOE

Scenic has studiously avoided sending information to ACOE or having them evaluate the project, with the exception of one very carefully crafted letter requesting a letter of No Jurisdiction from ACOE. This letter request did not include the details of the overall project. It only contained a simple site plan with layers of their choosing and a statement that they are not planning to disturb the WOUS and wetlands that were documented on their wetlands maps. ACOE was limited to this information in responding and the application has been misusing this letter as an ACOE confirmation of the wetlands on the

---

<sup>7</sup> Exhibit D: Willingham Unmapped Wetlands Map

<sup>8</sup> Patrick Farm FEIS, Ecology & Wetlands, December 22, 2009, Comment 3.3-21 (Letter #18, Shajan Thottakara, P.E., Rockland County Drainage Agency, July 30, 2009), [http://timmillerasassociates.com/publicreview/patrickfarm/FEIS\\_3.3\\_Ecology\\_Wetlands.pdf](http://timmillerasassociates.com/publicreview/patrickfarm/FEIS_3.3_Ecology_Wetlands.pdf)

<sup>9</sup> Exhibit F: Patrick Farm Dam Improvement Maps & Overlay 2/16/12 Brooker





property.

In an email between Stacey Jensen, the ACOE permitting coordinator, and Ed Moran from the Town of Ramapo DPW, she states that ACOE had not gotten the DEIS nor commented on it. The FOIA request confirmed that ACOE never received the DEIS. <sup>10</sup>

The DEIS incorrectly states that, "The plans have been reviewed by the US Army Corp of Engineers and their comments have been incorporated in the FEIS. Their comments also indicate approval of the wetlands mapping. However, this was false since the plans were NOT reviewed by ACOE and ACOE never commented on the plans.

The plans were NOT reviewed by ACOE and ACOE never commented on the plan .

## CONCLUSION

Protection of the Patrick Farm wetlands and recharge fields are of the utmost importance to both New York and New Jersey. Patrick Farm is located on top of the headwaters and recharge fields of EPA protected Ramapo-Mahwah Sole Source Aquifer (R-M SSA) which provides drinking water for over 1/3 of Rockland County and over 500,000 customers in New Jersey and is protected by the Safe Drinking Water Act and interstate commerce.

The proposed action to change an R-40 Conservation Zone for 1 home per acre, to MR-8 multifamily zone of 8 homes per acre for Scenic's project threatens the E-M SSA. The proposed project calls for the majority of the site to be clearcut; destruction of the protective mantel; 450,000 square yards of cut and fill; and be made impervious.

Scenic an Applicant with unclean hands and has a history of illegally filling the waters of the United States. Due to the repeatedly misrepresentations and omission in Scenic application for their current proposal they should be considered a potential repeat offender.

Given the size and scope of the proposed project, the sensitive environmental nature of the site, and the unclean hands of applicant we are requesting the EPA and ACOE to take preemptive action to prevent irreparable environmental harm. It is necessary, rational and reasonable to require full mapping and delineation of wetlands to ensure important environmental issues have been fully considered and impacts have been mitigated to comply with the Clean Water and Safe Drinking Water Acts.

We are requesting to take the follow actions:

Require a new ESA waiver

Require as a prerequisite to any approvals that all wetlands to be mapped and require an approved JD prior to the issuance of any approvals, permits or waivers

---

<sup>10</sup> Exhibit B: Stacey Jensen email to Ed Moran and FOIA confirmation

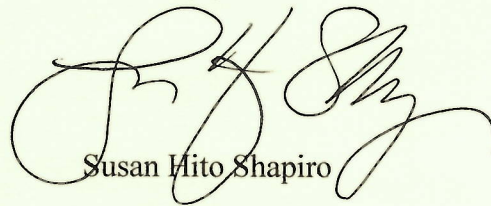


from any agency under the authority of the EPA.

Inform the Town of Ramapo Planning Board, which has scheduled final approvals for the subdivision to be granted on March 20, 2013, that no final approvals and commencement of clearcutting and grading cannot be granted until EPA conditions have been satisfied.

Thank you for your prompt attention to this matter.

Sincerely yours,



Susan Hito Shapiro

Cc:

Daniel Montella, EPA Region 2  
Grace Musumeci, EPA Region 2  
Chief Judy-Ann Mitchell, EPA Region 2  
Steve Ferreira, EPA Region 2  
Dianne Philipps, Rockland County Sewer District No. 1

2013 MAR 18 AM 8:43  
EPA REGION 2  
CORRESPONDENCE  
CONTROL OFFICE



# EXHIBIT A

EXHIBIT A



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
NEW YORK DISTRICT, CORPS OF ENGINEERS  
JACOB K. JAVITS FEDERAL BUILDING  
NEW YORK, N.Y. 10278-0090

JAN 07 2013

Office of Counsel

SUBJECT: Freedom of Information Act Request No. FA-12-0040

Deborah Seidman Munitz  
5 Rose Hill Road  
Suffern, NY 10901

Dear Ms. Munitz:

This is in response to your Freedom of Information Act request regarding all ACOE documents confirming the delineated and flagged boundaries of all Federal Jurisdictional wetlands on the Patrick Farm site prepared in accordance with methodology provided in 1987 ACOE wetlands Delineation Manual and later editions. This is additional information to documents requested in FOIA FA-13-0035 requested on December 06, 2012.

Please be advised that no Jurisdictional Determination had been done.

A "no records" response is an "adverse determination" under 5 U.S.C. 552(a)(6)(A)(i) since the requester did not receive the documents it requested. Oglesby v. Department of the Army, 920 F2d 57, 67 (D.C. Cir. 1990). As a result, a requester wishing to challenge the adequacy of the search must have the opportunity to appeal a "no records" response to the head of the agency. In the present situation, the undersigned is the Initial Denial Authority for "no records" denial. You have the right to appeal this determination through our office to the Secretary of the Army.

An appeal must be received within 60 days of the date of this letter. The envelope containing the appeal should bear the notation "Freedom of Information Act Appeal" and should be sent to:

U.S. Army Engineer District, New York,  
ATTN: Office of Counsel, Room 1837  
26 Federal Plaza  
New York, NY 10278

According to applicable regulations, there are no assessable fees.

Sincerely,

Lorraine Lee  
District Counsel  
Initial Denial Authority  
Freedom of Information Act Officer

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540 EAST 57TH STREET  
CHICAGO, ILL. 60637



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# **EXHIBIT B**

EXHIBIT 3



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
NEW YORK DISTRICT, CORPS OF ENGINEERS  
JACOB K. JAVITS FEDERAL BUILDING  
NEW YORK, N.Y. 10278-0090

FEB 06 2013

Office of Counsel

SUBJECT: Freedom of Information Act Request No. FA-13-0062

Deborah Seidman  
5 Rose Hill Road  
Suffern, NY 10901

Dear Ms. Seidman:

This is in response to your Freedom of Information Act request regarding the Patrick Farm property, Permit Application # NAN-2011-00851.

Please be advised that we conducted a thorough search of our District files and we did not locate any information to satisfy your request.

A "no records" response is an "adverse determination" under 5 U.S.C. 552(a)(6)(A)(i) since the requester did not receive the documents it requested. Oglesby v. Department of the Army, 920 F2d 57, 67 (D.C. Cir. 1990). As a result, a requester wishing to challenge the adequacy of the search must have the opportunity to appeal a "no records" response to the head of the agency. In the present situation, the undersigned is the Initial Denial Authority for "no records" denial. You have the right to appeal this determination through our office to the Secretary of the Army.

An appeal must be received within 60 days of the date of this letter. The envelope containing the appeal should bear the notation "Freedom of Information Act Appeal" and should be sent to:

U.S. Army Engineer District, New York,  
ATTN: Office of Counsel, Room 1B37  
26 Federal Plaza  
New York, NY 10278

According to applicable regulations, there are no assessable fees.

Sincerely,

Lorraine Lee  
District Counsel  
Initial Denial Authority  
Freedom of Information Act Officer



## Ed Moran

---

**From:** Jensen, Stacey M NAN02 [Stacey.M.Jensen@usace.army.mil]  
**Sent:** Tuesday, March 30, 2010 10:07 AM  
**To:** Ed Moran  
**Subject:** RE:

Thank you for the heads up; if I see it come in, I will take a look at it.

Best wishes,  
Stacey

Stacey M. Jensen  
Chief, Eastern Section  
Regulatory Branch  
NY District U.S. Army Corps of Engineers  
26 Federal Plaza, Room 1937  
New York, NY 10278  
Phone (917) 790-8420/BlackBerry (718) 715-9050/Fax (212) 264-4260

-----Original Message-----

**From:** Ed Moran [mailto:MoranE@ramapo-ny.gov]  
**Sent:** Tuesday, March 30, 2010 10:04 AM  
**To:** Jensen, Stacey M NAN02  
**Subject:** RE:

Thanks for checking. It's a 200 acre project, 500 housing units, with approximately 30 acres of federal and DEC wetlands.

-----Original Message-----

**From:** Jensen, Stacey M NAN02 [mailto:Stacey.M.Jensen@usace.army.mil]  
**Sent:** Tuesday, March 30, 2010 9:55 AM  
**To:** Ed Moran  
**Subject:** RE:

Ed,

We generally do not comment on EIS documents unless it is a large project wherein we feel our comments would be useful for the process, or where another federal agency is the lead. Therefore, no we have not seen nor commented on the documents you mentioned for the Patrick Farm project. We do not review or comment until we receive an application for a project like this. Thank you.

Best wishes,  
Stacey

Stacey M. Jensen  
Chief, Eastern Section  
Regulatory Branch  
NY District U.S. Army Corps of Engineers  
26 Federal Plaza, Room 1937  
New York, NY 10278  
Phone (917) 790-8420/BlackBerry (718) 715-9050/Fax (212) 264-4260



-----Original Message-----

From: Ed Moran [mailto:MoranE@ramapo-ny.gov]

Sent: Tuesday, March 30, 2010 9:45 AM

To: Jensen, Stacey M NAN02

Subject:

Hey Stacey...

Hope all is well. I'm sure you're swamped and I doubt me acknowledging that you're swamped is any consolation...but I was hoping you had a minute to look into whether or not your department ever received or reviewed the Patrick Farm DEIS or FEIS. The site, which is located adjacent to Route 202 and Route 306 within Ramapo has numerous jurisdictional waters/wetlands and I'm concerned that you, or your department, hasn't had a chance to comment on the plans. There's a pond within the site adjacent to one of the federal wetlands and the applicant's engineer, Leonard Jackson Associates, is not listing it as a jurisdictional water. There are also numerous streams, etc leading to the wetland areas. The site is rather extensive and I want to make sure you've had an opportunity for review. It's pretty obvious to me that a JD is necessary, however the applicant is stating that since the NYSDEC certified the limits of the wetlands in 2009, they don't need to go to you for a JD. Please let me know if you've seen the DEIS, FEIS, or the plans for this project. You can either email me back, or reach me at 845-357-0591 ext 122, or on my cell at 201-403-8670.

Thanks for your help...

Take care,

Ed





# **EXHIBIT C**

EXHIBIT C







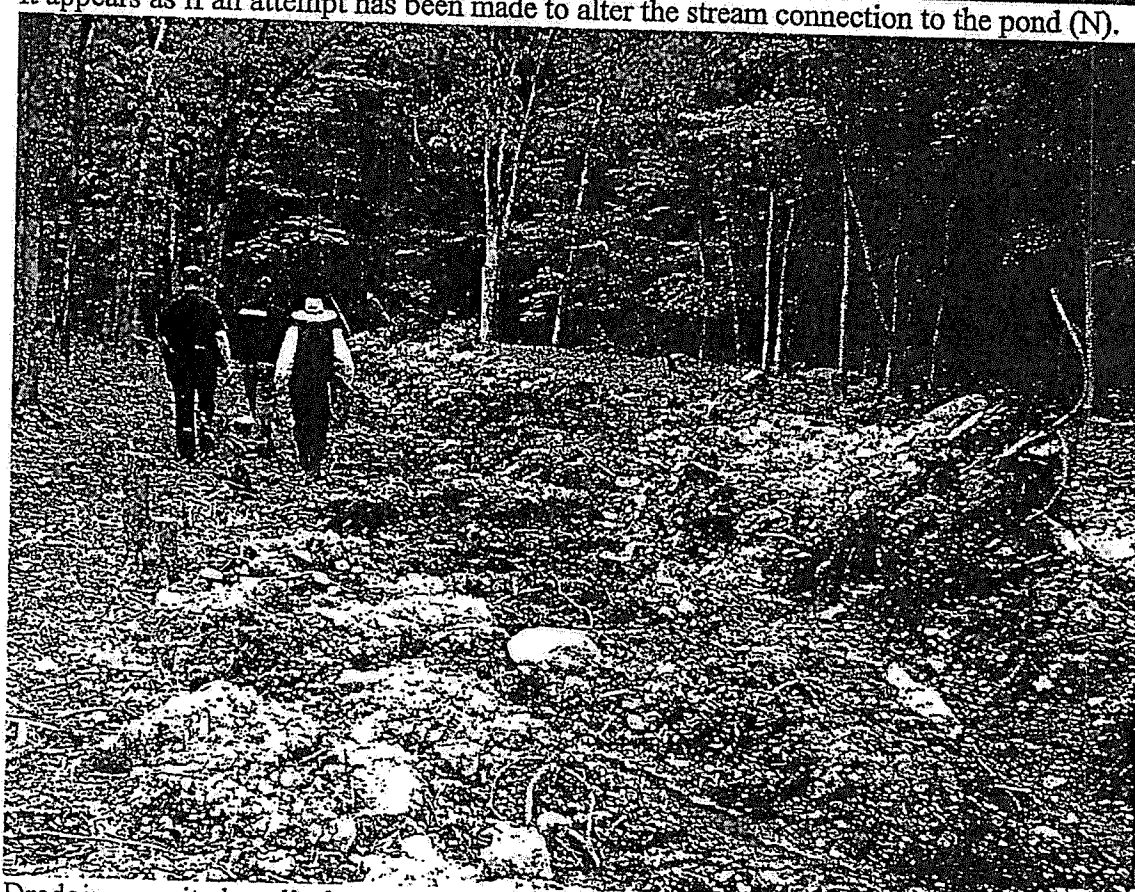
DREDGED AREA







It appears as if an attempt has been made to alter the stream connection to the pond (N).



Dredging on site has discharged more than the "de minimis" amount of fill material (W).



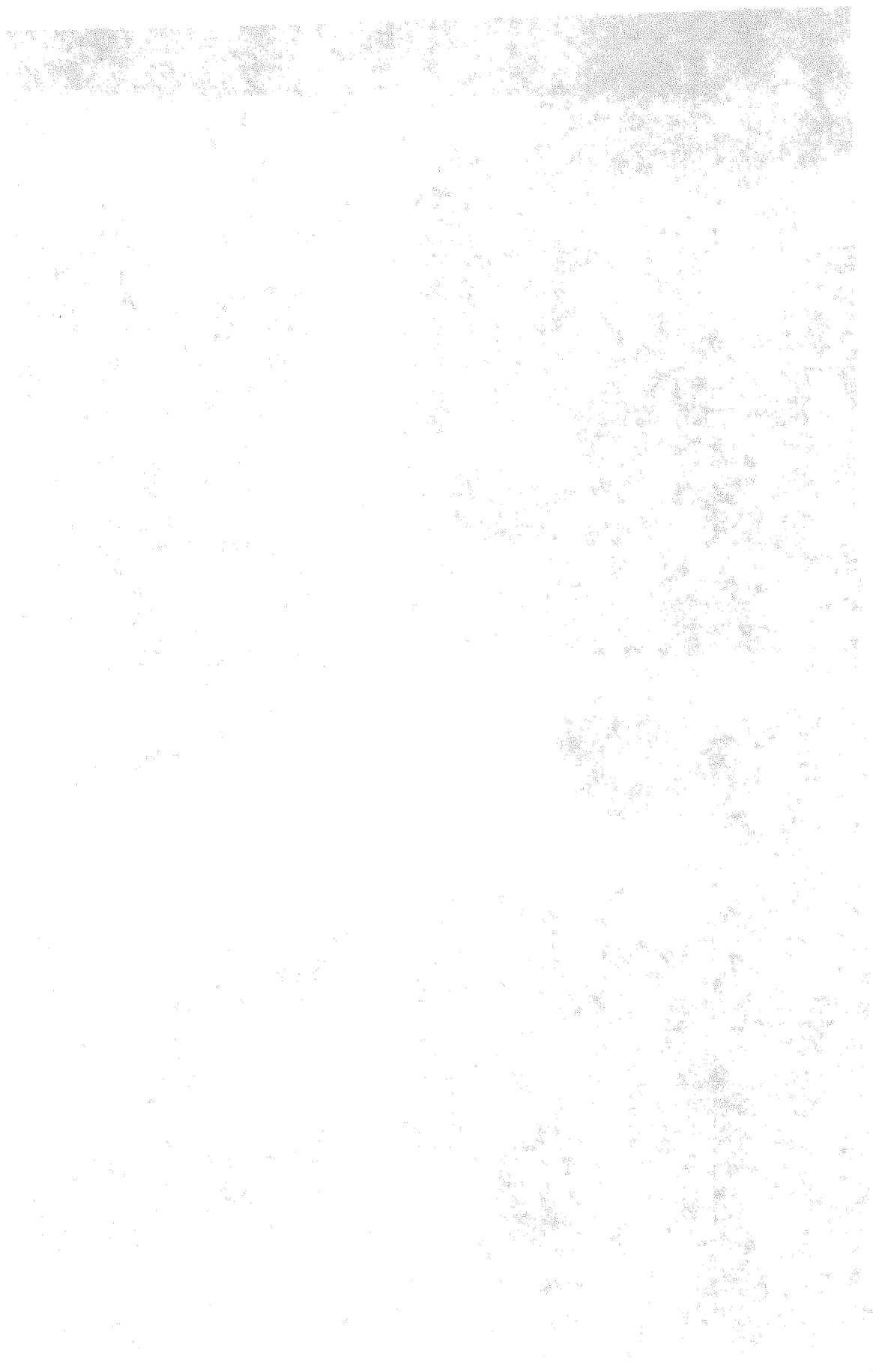




Recent dredging activities adjacent to the discharge point from the pond have introduced fill material into an onsite stream which is in effect, waters of the United States (NW).



This small dam may have been altered recently (SE).





Recent dredging activities adjacent to the discharge point from the pond have introduced fill material into an onsite stream which is in effect, waters of the United States (NW).



This small dam may have been altered recently (SE).





Recent dredging activities adjacent to the discharge point from the pond have introduced fill material into an onsite stream which is in effect, waters of the United States (NW).



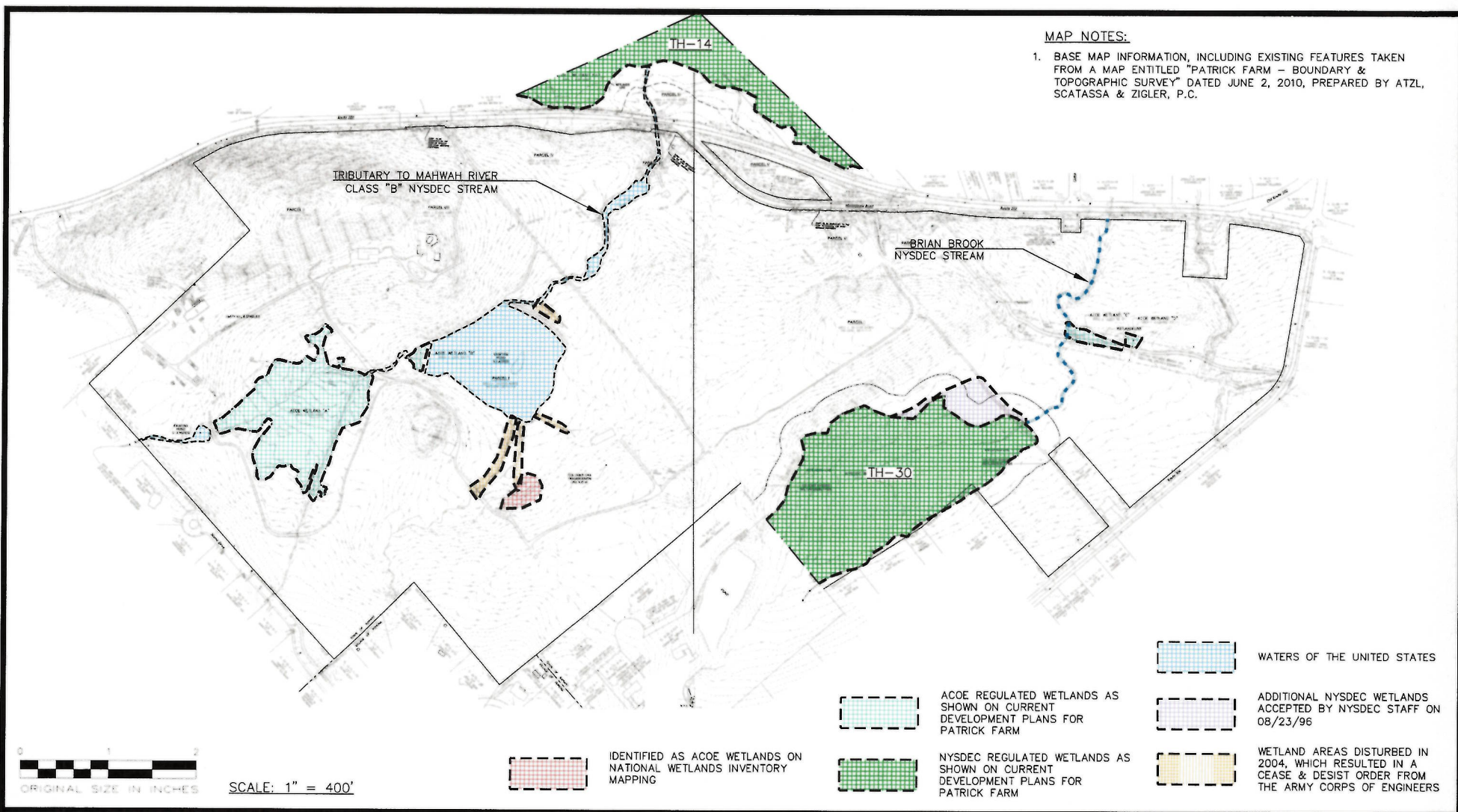
This small dam may have been altered recently (SE).



# **EXHIBIT D**

EXHIBIT





REV	DATE	DESCRIPTION

**David Clouser & Associates**  
Professional Engineers & Land Surveyors



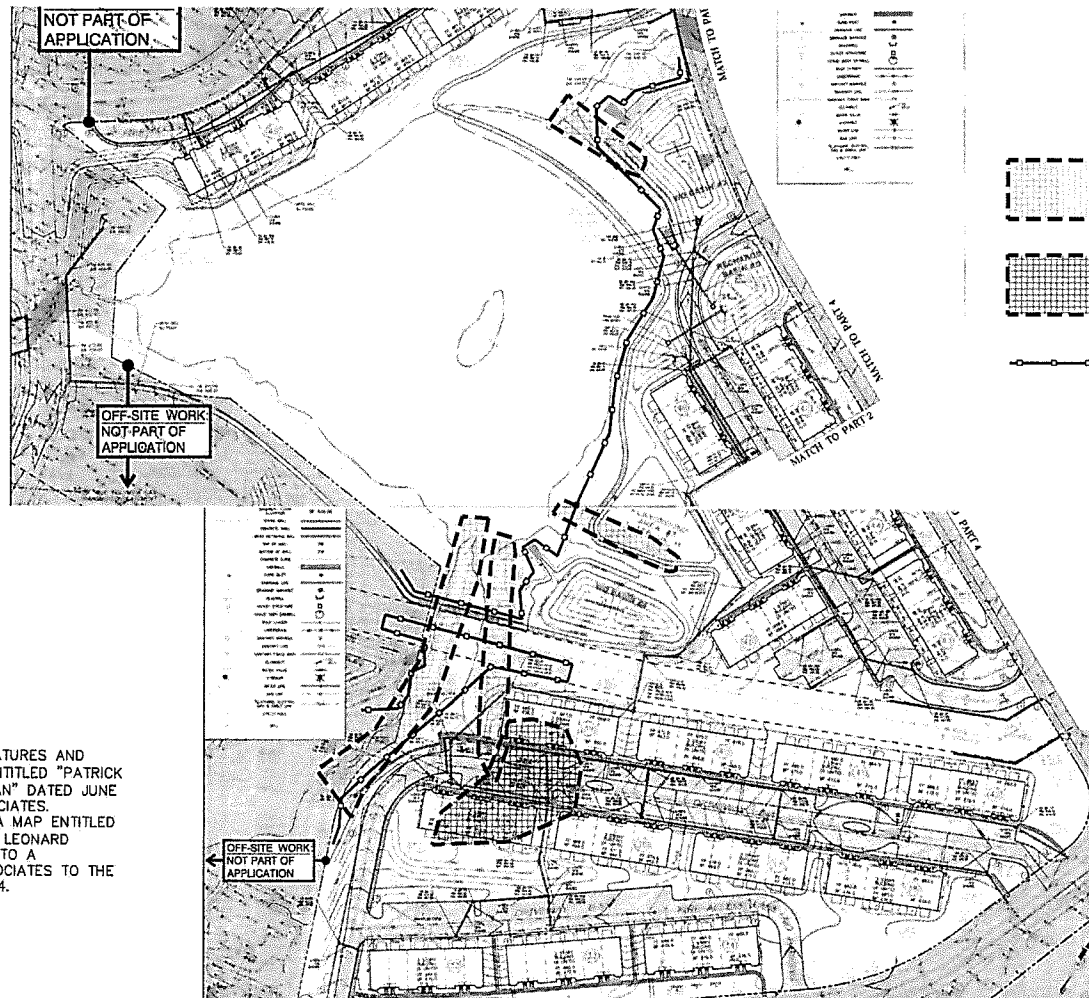
1 Paradise Lane - Suite 200 New Paltz, NY 12561  
Phone: (845) 256-9600 Fax: (845) 256-9700  
www.dcaengr.com

**WELAND MAPPING**

**PATRICK FARM**  
ROCKLAND ORGANIZED FOR SUSTAINABILITY & A SAFE AQUIFER  
STATE ROUTES 202/306 TOWN OF RAMAPO  
ROCKLAND COUNTY, NEW YORK

DATE	DRAWN BY
12/09/11	AWV
PROJECT NO.	
80039	
SHEET NO.	
<b>W-1</b>	





REV	DATE	DESCRIPTION

**David Clouser & Associates**  
Professional Engineers & Land Surveyors



1 Paradise Lane - Suite 200 New Paltz, NY 12561  
Phone: (845) 256-9600 Fax: (845) 256-9700  
www.dcaengr.com

**WELAND DISTURBANCE - POND AREA**

**PATRICK FARM**  
ROCKLAND ORGANIZED FOR SUSTAINABILITY & A SAFE AQUIFER  
STATE ROUTES 202/306 TOWN OF RAMAPO  
ROCKLAND COUNTY, NEW YORK

DATE	DRAWN BY
12/09/11	AVW
PROJECT NO.	
80039	
SHEET NO.	
W-2	



# **EXHIBIT E**

EXHIBIT E





Below we have pulled out all the examples of potential streambed disturbances caused by stream crossings or development within wetland 100' boundaries or within 50' of beds and banks.

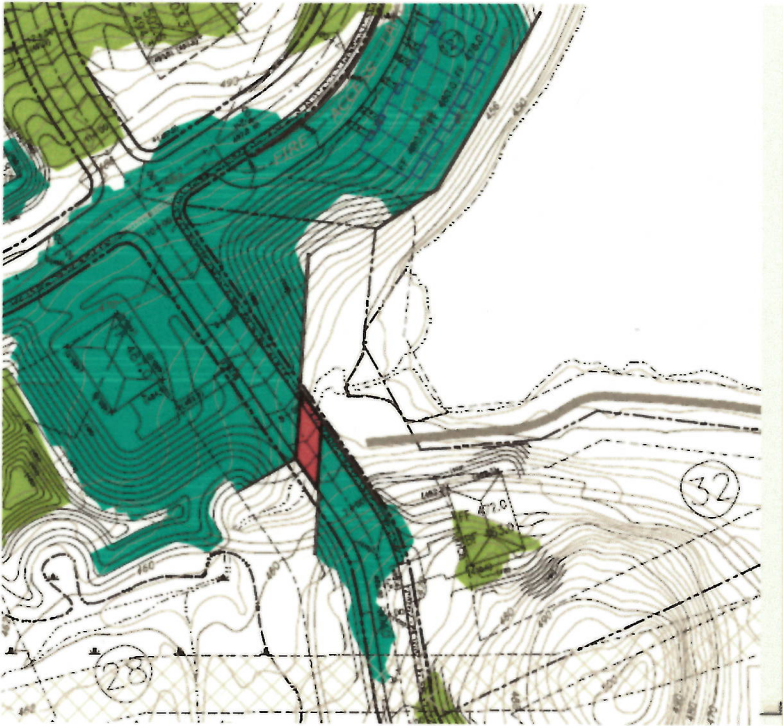
Also note that the applicant did not consistently implement the 50' boundary in this map in the areas where the tributaries join the pond, which are the areas where there are wetlands.

### **Culvert #2 Road A Stream Crossing Over ACOE A**

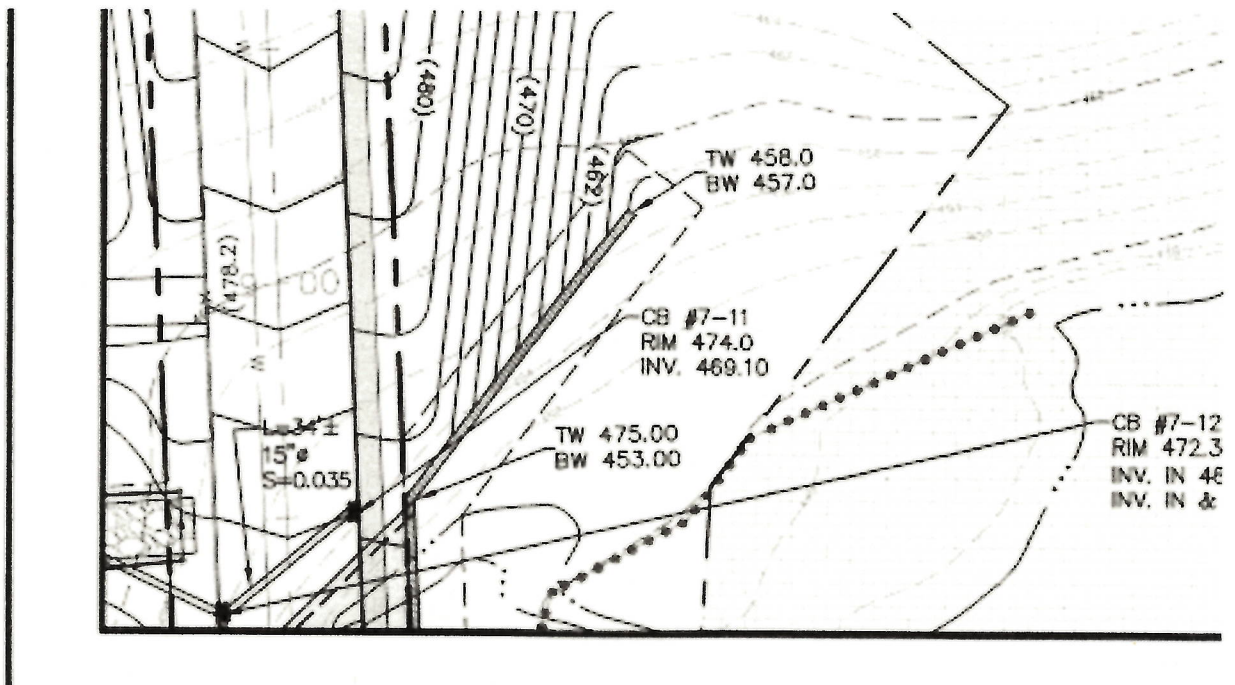
This Road is west of the pond and crosses over the stream connecting the documented ACOE Wetland A to ACOE Wetland B; however along the banks of the streams are small wetland areas that would also be considered ACOE wetlands and should be protected. On the DEIS Figure 3.1-7 below you can see a large amount of fill is planned for this area. Without an ACOE JD, the extent of the disturbance of protected resources cannot be evaluated.





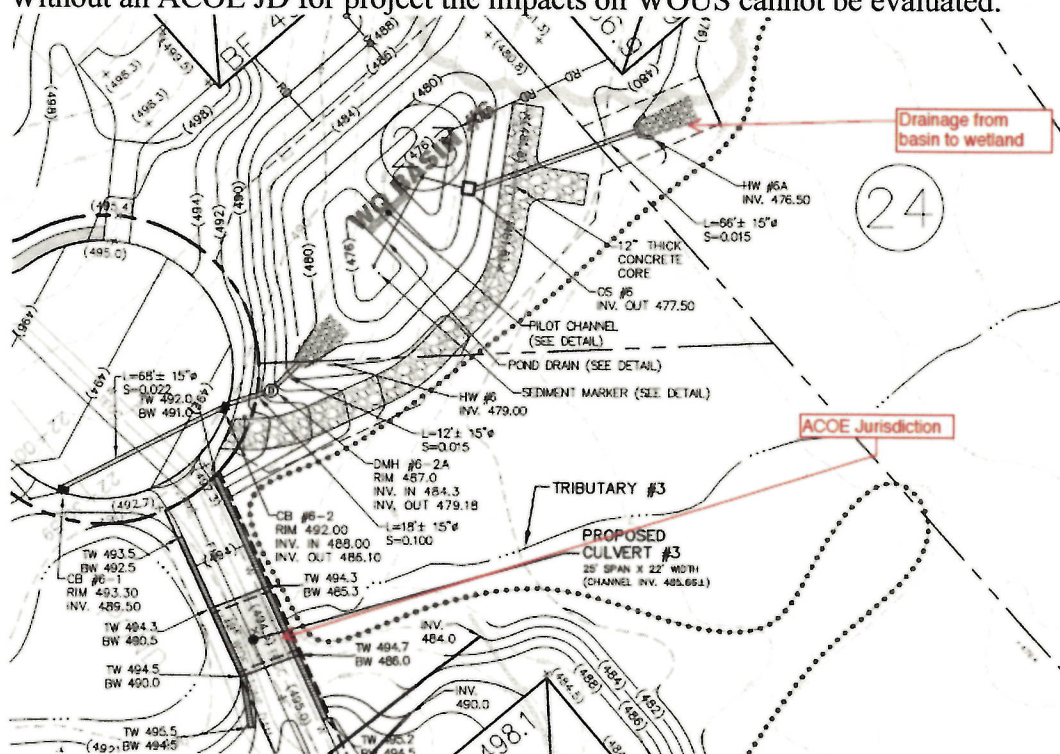
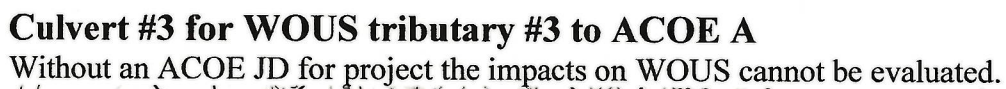


This culvert adjacent to the west corner of the pond is only partially shown without 50' boundary indicators on the Subdivision Plans Drawing #14 Grading and Drainage Part 2 of 9.



The other portion is partially shown on Drawing #18 Grading and Drainage Part 6 of 9.



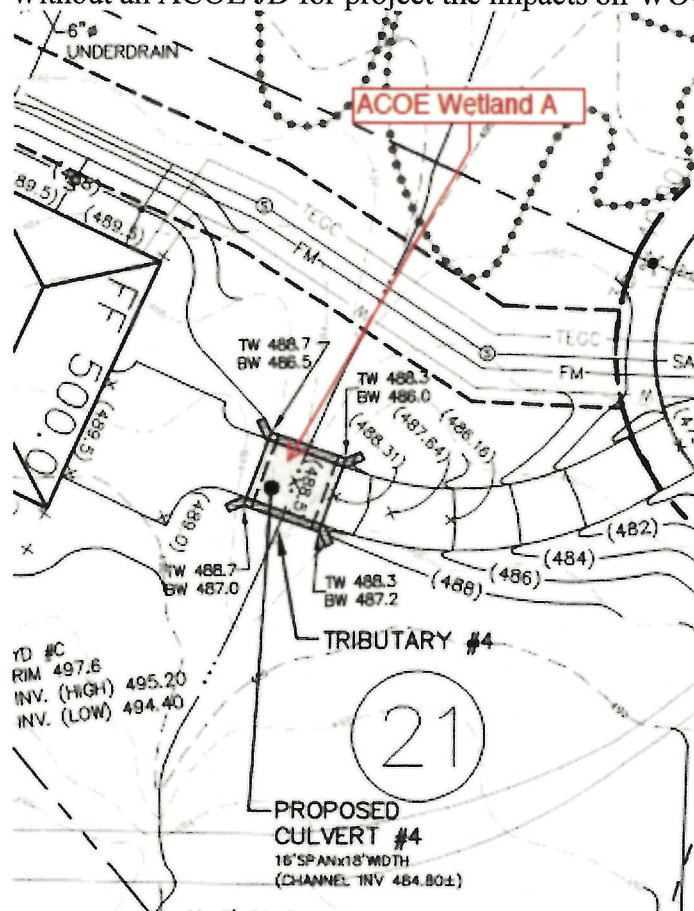






### Culvert #4 for WOUS tributary #4 to ACOE A

Without an ACOE JD for project the impacts on WOUS cannot be evaluated.

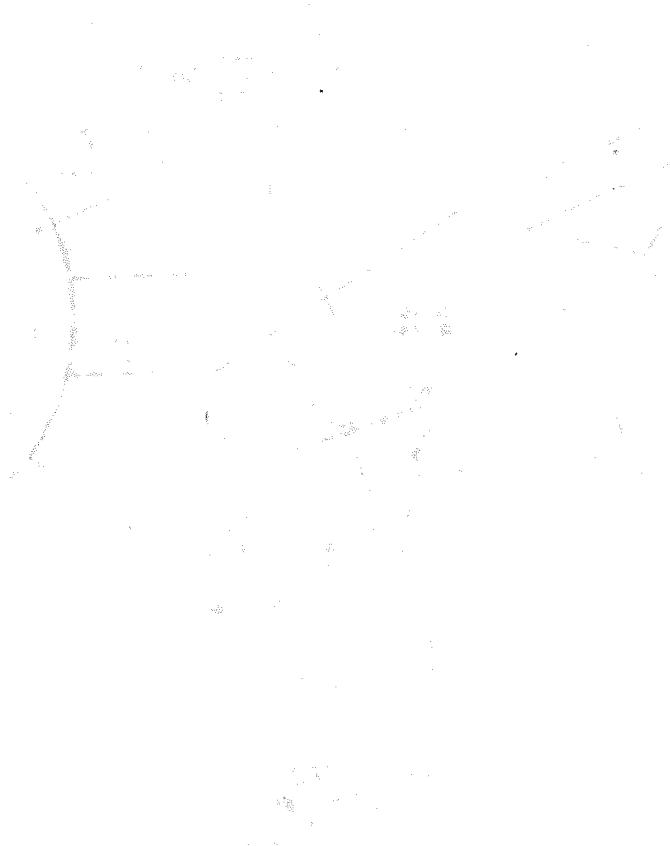


### Culvert #5 for WOUS Tributary #2 to Pond

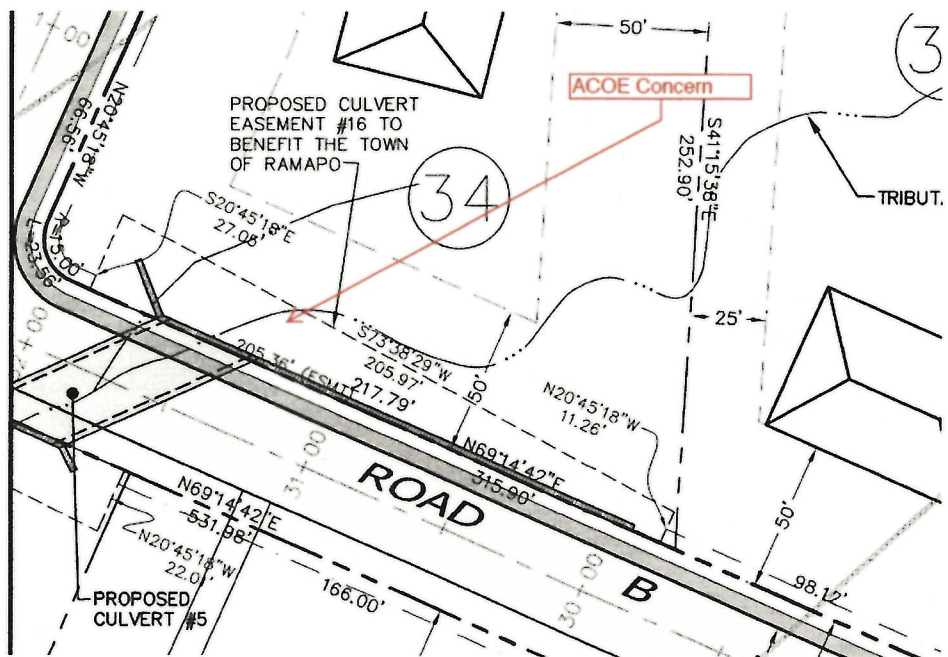
Without an ACOE JD for project the impacts on WOUS cannot be evaluated.

2012年12月20日

2012年12月20日



2012年12月20日







**Culvert #6 under Road D + Culvert #7 under Road F - Crossing over ACOE WOUS unnamed tributary of Mahwah as shown in Cut and Fill DEIS Figure: two stream crossings still exist on the current plans. Without an ACOE JD for project the impacts on WOUS cannot be evaluated.**







### Drainage Basin Outputs

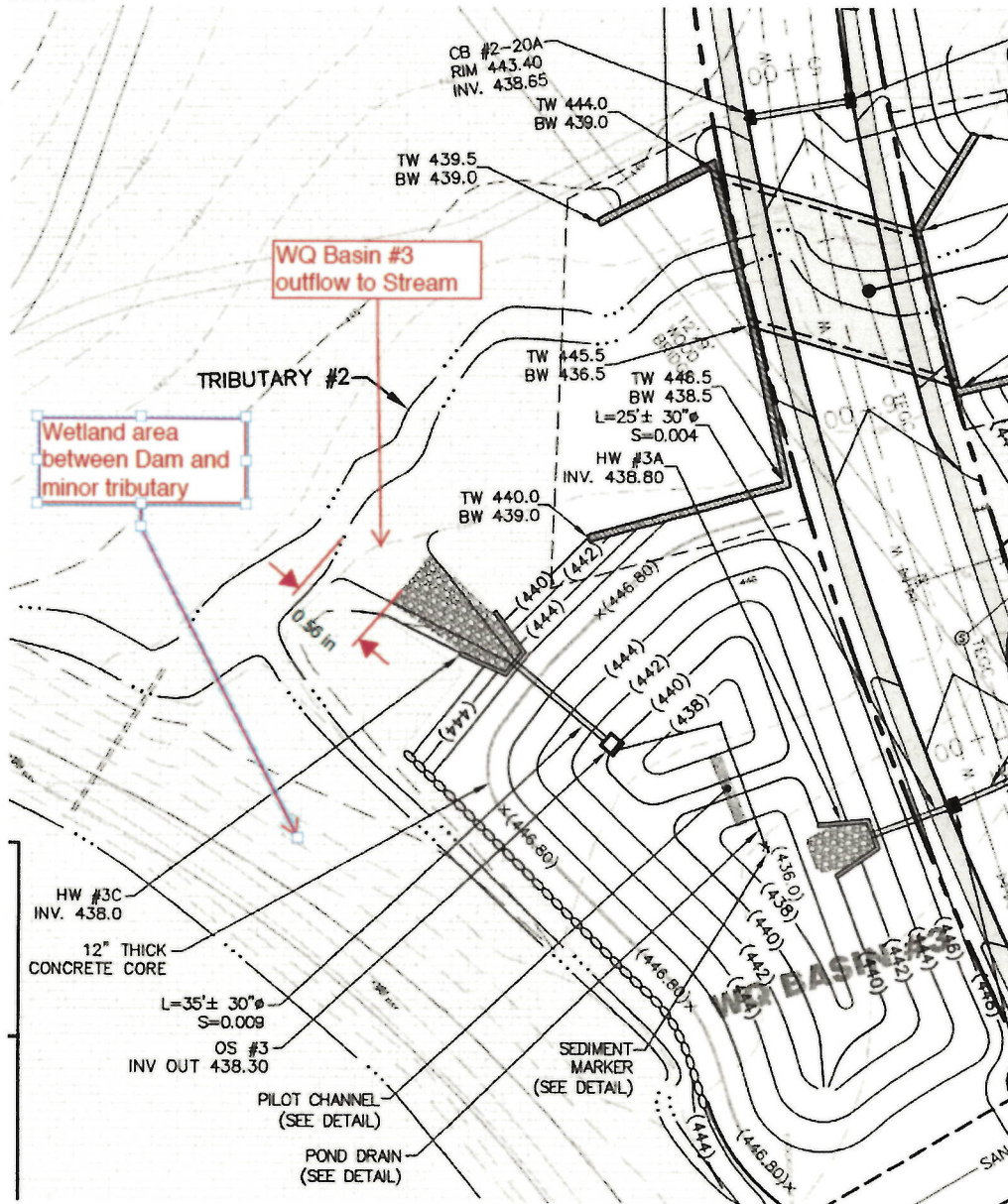
**Water Quality Basin #1** shown on p15 drains to class B Stream shown on Subdivision p14 within approximately 30' (See above Rte. 202 Culvert)

### Water Quality Basin #2 Drains to Class B Stream

Shown on drawing #14 and included in the application as see location A.

### Water Quality Basin #3

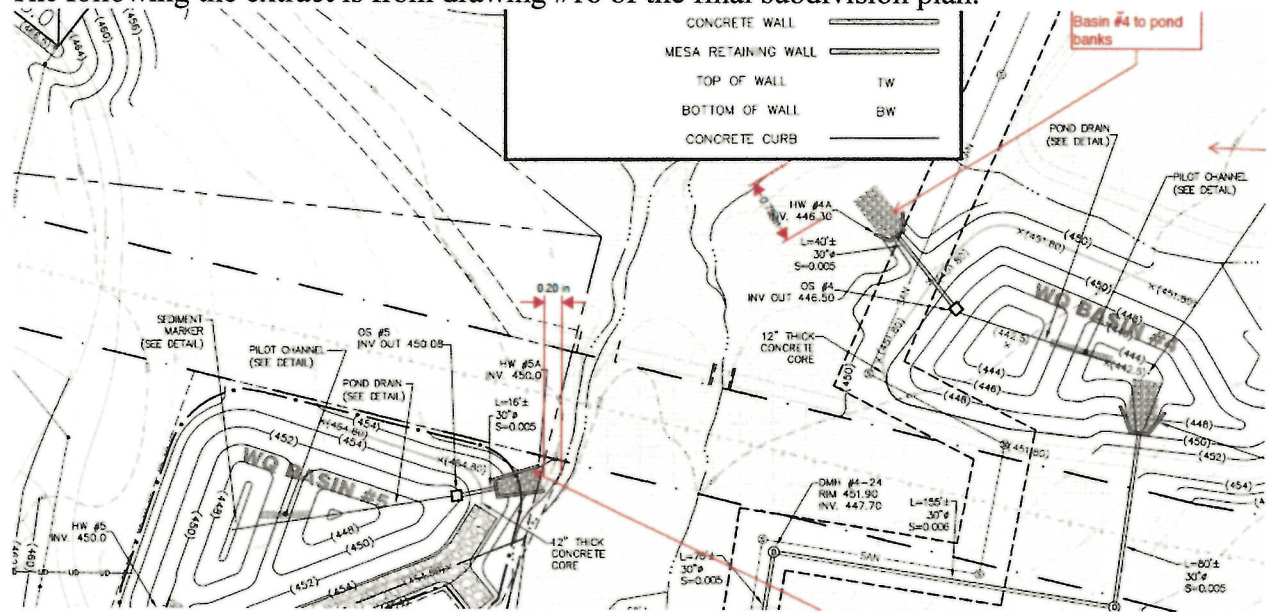
Shown on subdivision drawing #14 drains to class B Stream within approximately 25' of stream.





**Water Quality Basin #4 drains to wetland around pond <50' from pond edge; note obscured by legend on drawing and Water Quality Basin #5 drains to tributary <10**

The following the extract is from drawing #18 of the final subdivision plan.



Directly above this area shown on drawing #18 you can see the sewer line crossing through the banks of the pond within 20' of the pond edge where there are willow trees and phragmites growing. \*\* Without an ACOE JD for project the impacts on WOUS cannot be evaluated and a new ESA Waiver will be required from the US EPA.



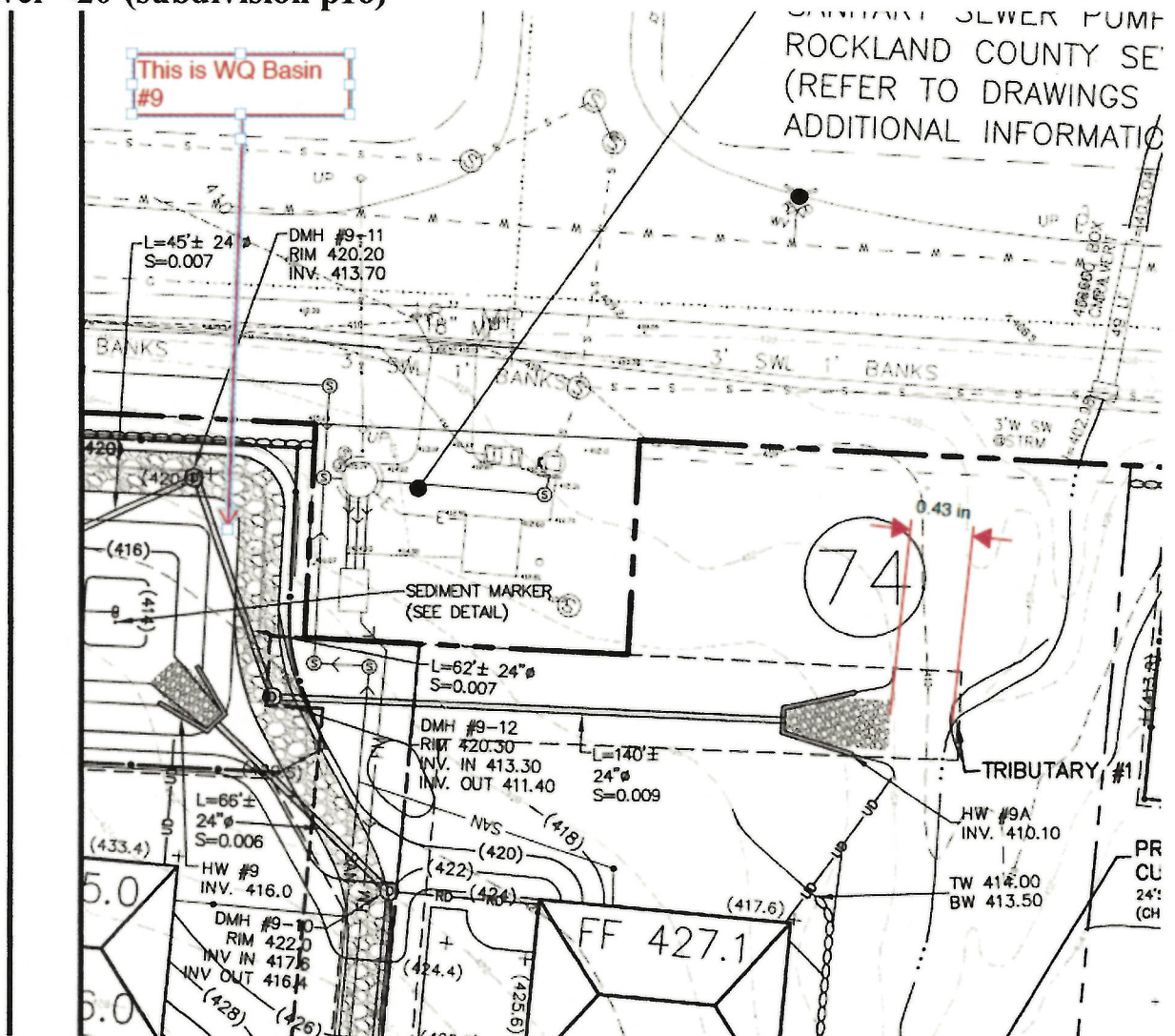


Taking roof drainage and routing it away from wetlands will starve wetlands.





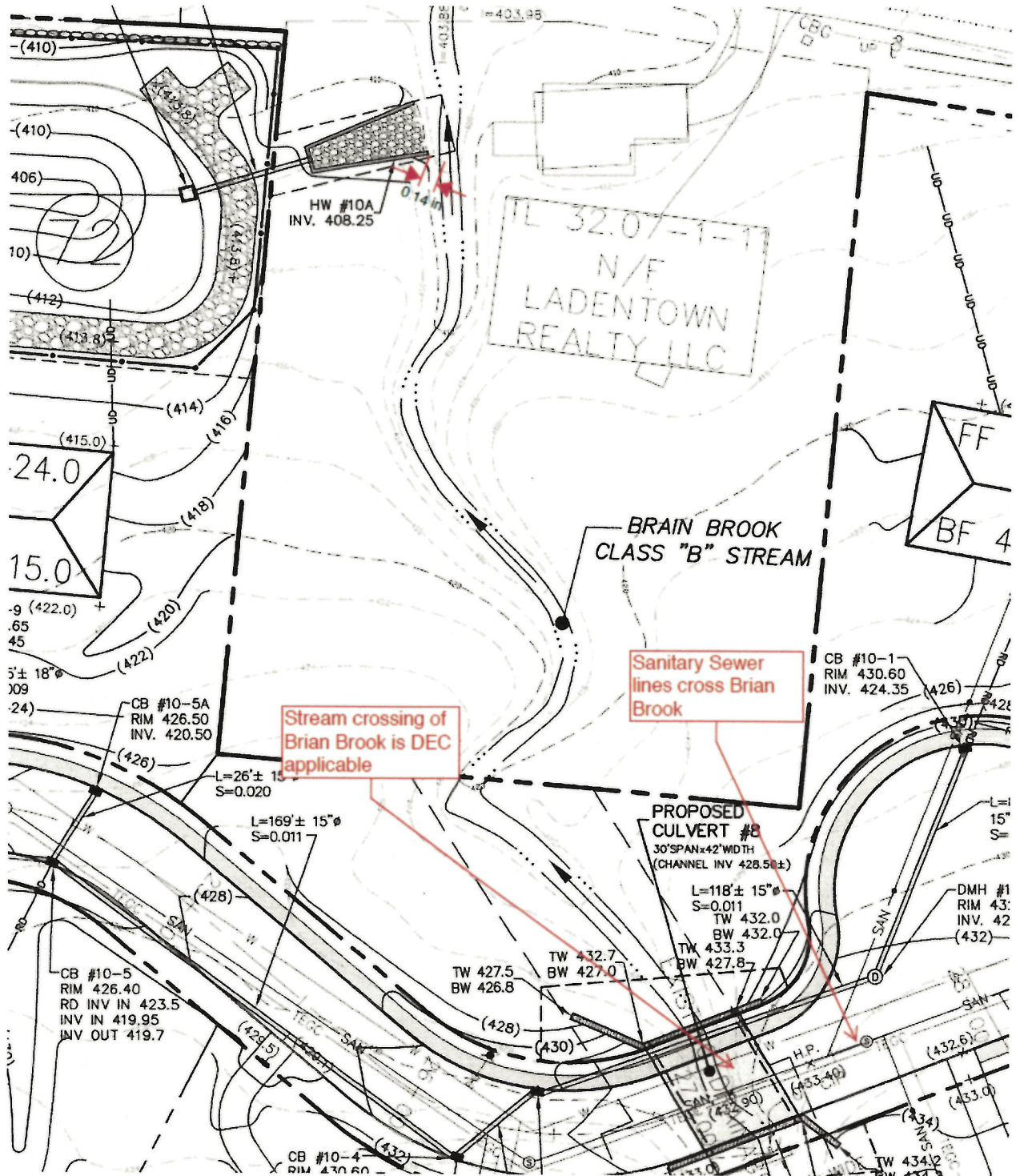
**Water Quality Basin #9 drain to unnamed tributary #1 to Mahwah  
River <20'(subdivision p16)**





**Water Quality Basin #10 shown on subdivision p16 drains to class B Brian Brook off site. ~10' (subdivision p16)**

The following extract from final subdivision drawing #16 shows the culvert over the Class B Stream Brian Brook, a sanitary line crossing the stream and the outflow from WQ Basin #10



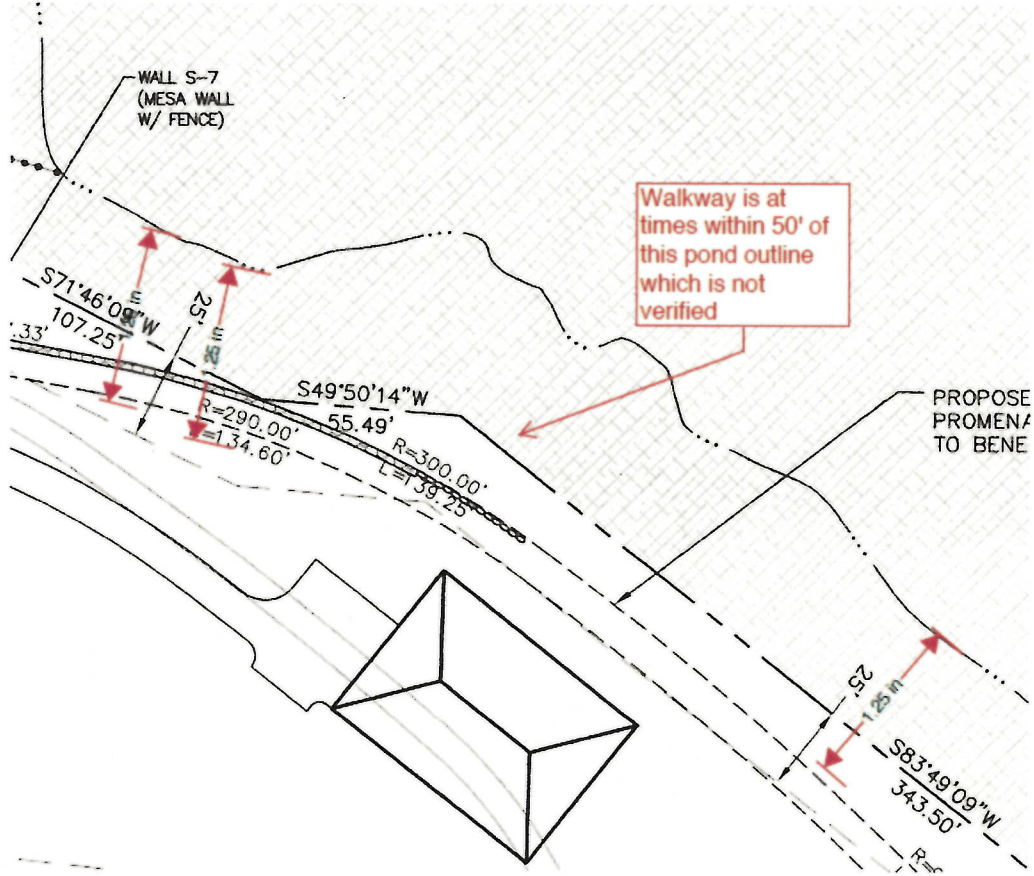




## Condominiums

### Walkway South and South East of Pond

The area where the applicant proposes a walkway is a key area of dispute regarding wetlands and boundaries. It appears that this walkway and the stream crossing might be under water caused by raising the dam. Certainly it will require fill in the wetland area adjacent to the WOUS. Without a ACOE JD for project the impacts on WOUS cannot be evaluated.





<b>PATRICK FARM SUBDIVISION</b> TOWN OF RAMAPO ROCKLAND COUNTY, NEW YORK	<b>LAYOUT PLAN (PART 6 of 9)</b>
	Job number: 09051
Drawn by: AM	Date: 05/24/10
Scale: 1" = 40'	Drawing Number:  <b>9</b>

From subdivision drawing #9 you can see that the walkway crosses over two tributaries to the stream in a sensitive wetland area. These crossings are not highlighted. And you can also see the sanitary easement for the sewer lines that are crossing directly through the path of the willows trees that border the east/southeast section of the pond. Without an ACOE JD for project the impacts on WOUS cannot be evaluated.





**Fill Northwest of Pond for buildings 127 + 88 on extremely steep slope**

The following excerpt from the cut and fill Figure 3.1-7 of the DEIS shows plans to fill the steep slope north of the pond and build a retaining wall. With the new Dam Ordinary High Water Mark this distance will be even closer.



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PRINTED IN GREAT BRITAIN

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477 Williamstown Road, Port Melbourne, VIC 3207, Australia

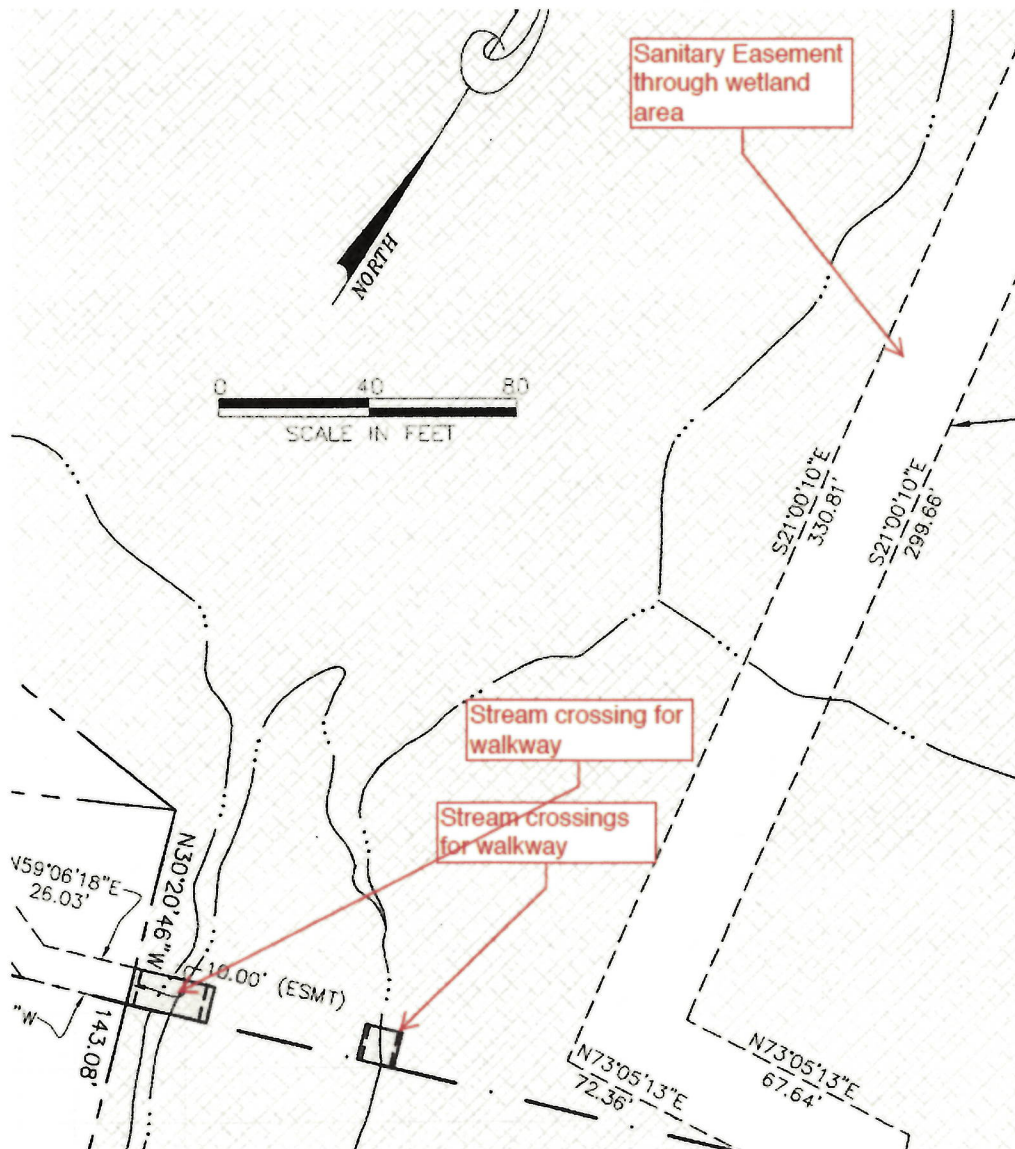
PO Box 114, North Sydney, NSW 1585, Australia

23, Avenue du Prince Royal, 1050 Brussels, Belgium

477 Williamstown Road, Port Melbourne, VIC 3207, Australia

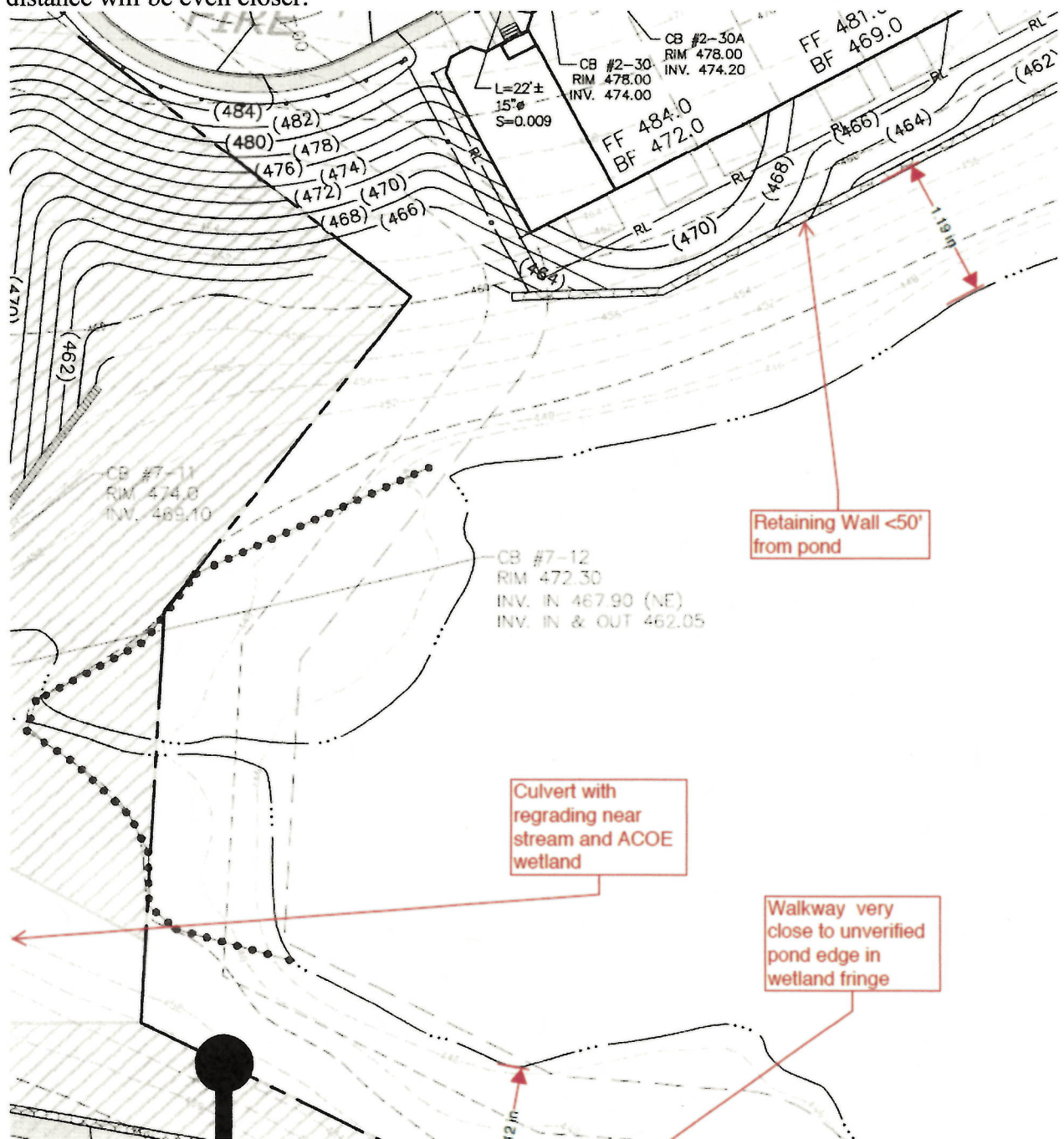
PO Box 114, North Sydney, NSW 1585, Australia

23, Avenue du Prince Royal, 1050 Brussels, Belgium





The following is from Figure 7 of the Final Site Plan for the Condominiums and shows that this retaining wall is <50' from the pond edge. With the new Dam OHWM this distance will be even closer.





1. The first part of the paper is devoted to a discussion of the  
theoretical aspects of the problem. It is shown that the  
problem is well-posed in the sense of Hadamard.

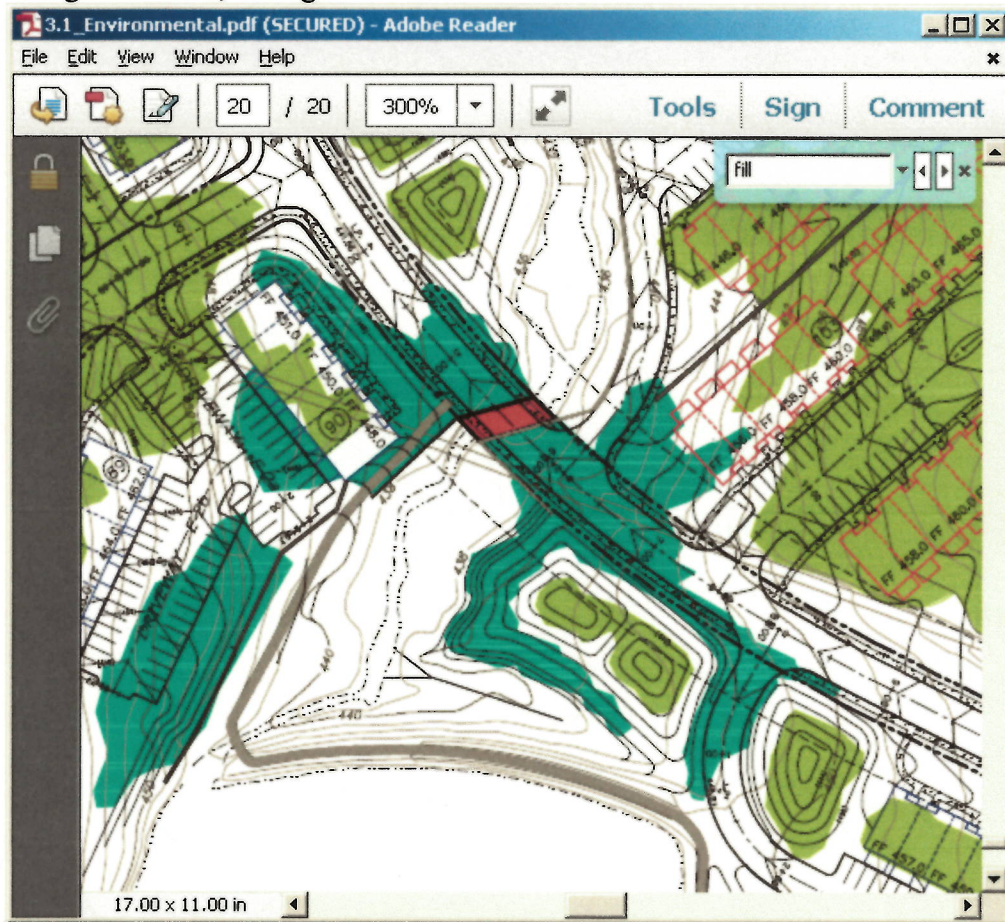
2.



### **Culvert #1 - Road B Stream Crossing North of Pond Dam**

Current application does not show cut and fill plans but show that this culvert is still planned in the same location. Area on north side of dam has wetland properties and should be evaluated prior to approval.

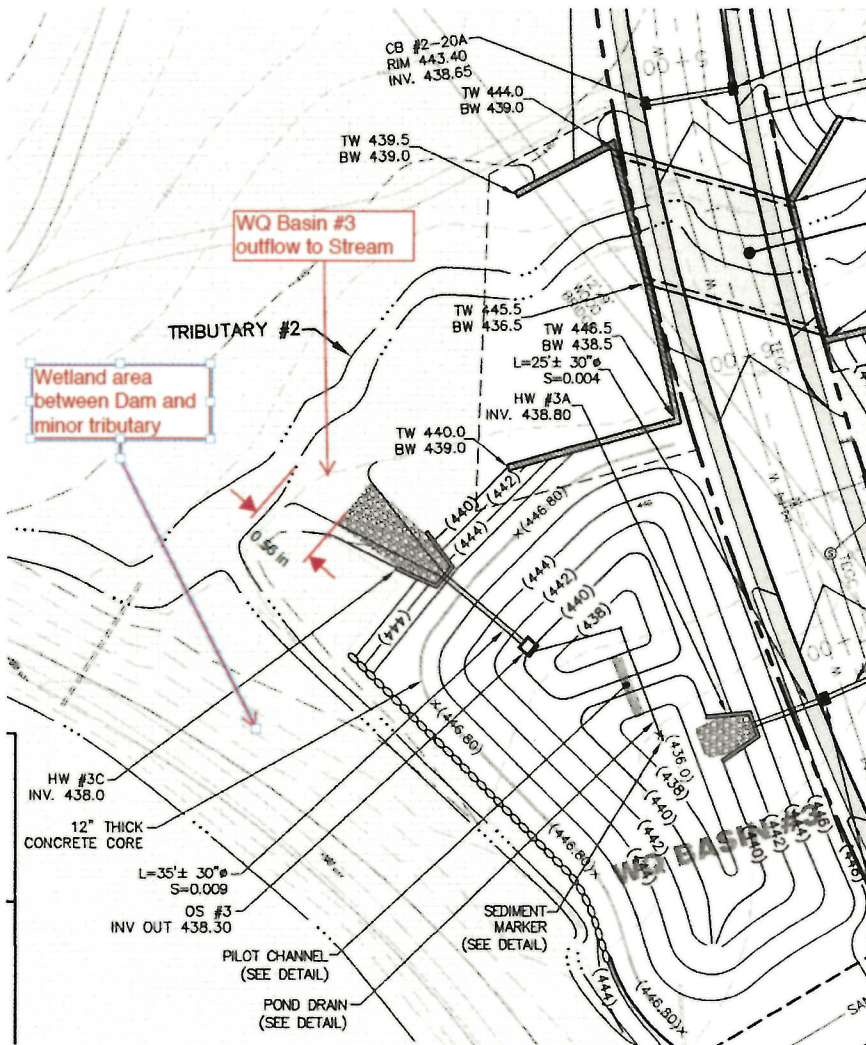
The following screen shot shows a planned stream cross across Class B Stream from Pond. It was taken from section 3.1 of the DEIS Figure 3.1-7 Cut and Fill Analysis Map; dark green = fills, lime green = cuts.







Following is an extract from the final Subdivision Plan Drawing #14 showing that this culvert is still planned for the project. This cu

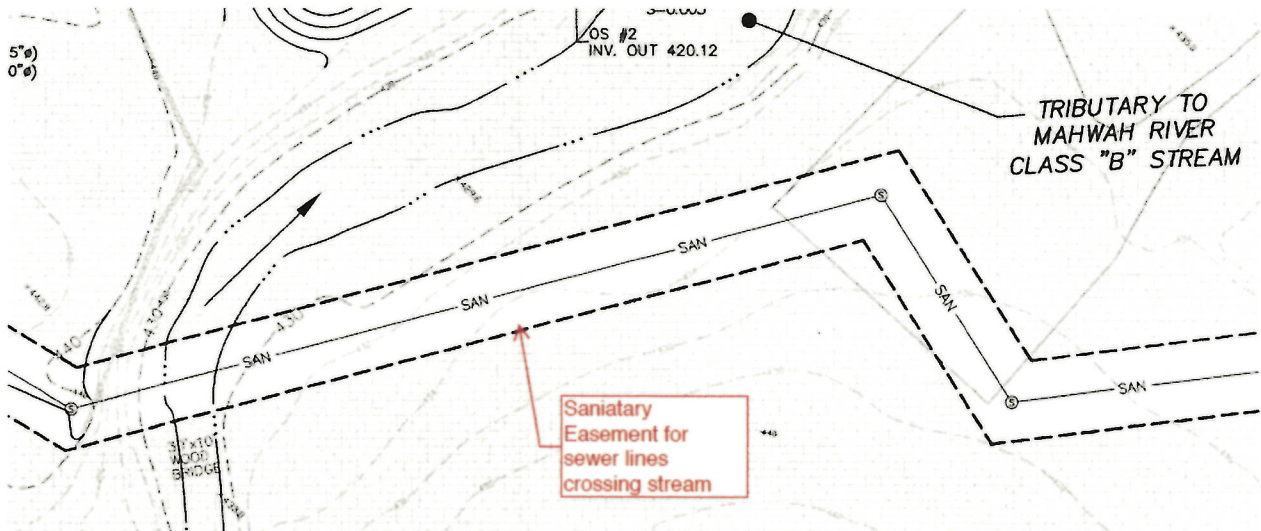


<b>PATRICK FARM SUBDIVISION</b>	
TOWN OF RAMAPO	
ROCKLAND COUNTY, NEW YORK	
<b>GRADING &amp; DRAINAGE PLAN (PART 2 of 9)</b>	
Job number:	09051
Drawn by:	MAK
Date:	05/24/10
Scale:	1" = 40'
Drawing Number:	14



### Along Stream North of Pond

North of the pond dam but south of Location B there is a sewer line crossing the stream near building #54. This is taken from final subdivision plan drawing #14



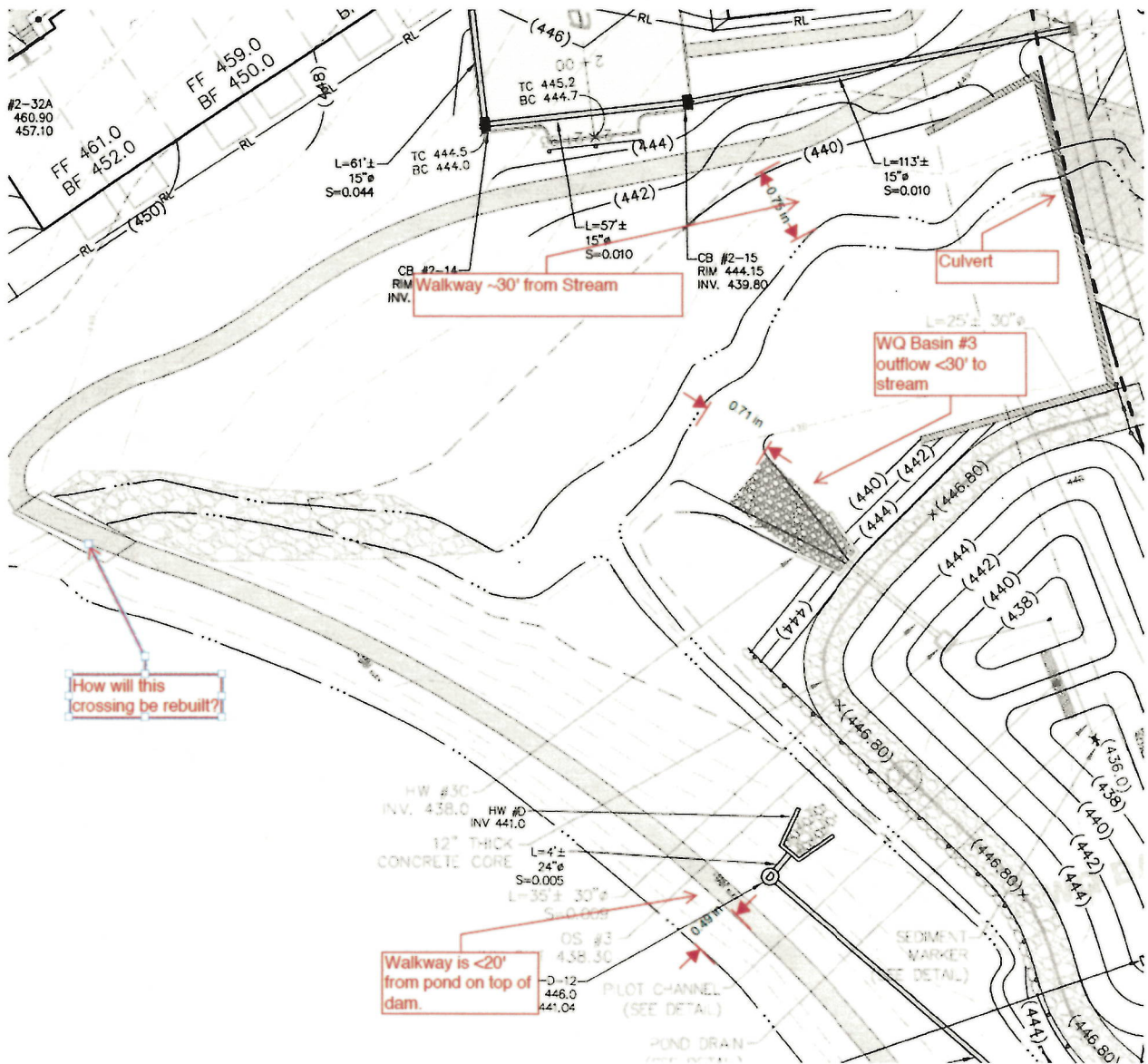
Immediately north of dam is a minor tributary to the class B stream and this flat area is a potential wetland area. Water Quality Basin #3 is located here with an outflow located ~25' from the main stream. (See above section on WQ Basin #3)

### Dam Area Details from Drawing 7 of Condominium Site Plan – Grading and Drainage 1 of 5

Without an ACOE JD for project the impacts of the walkway being planned approximately 30' from the stream and <20' from the stream edge, the culvert over the stream, and the drainage from WQ Basin #3, cannot be evaluated. All of this is in an area where there are patches of phragmites and skunk cabbages.



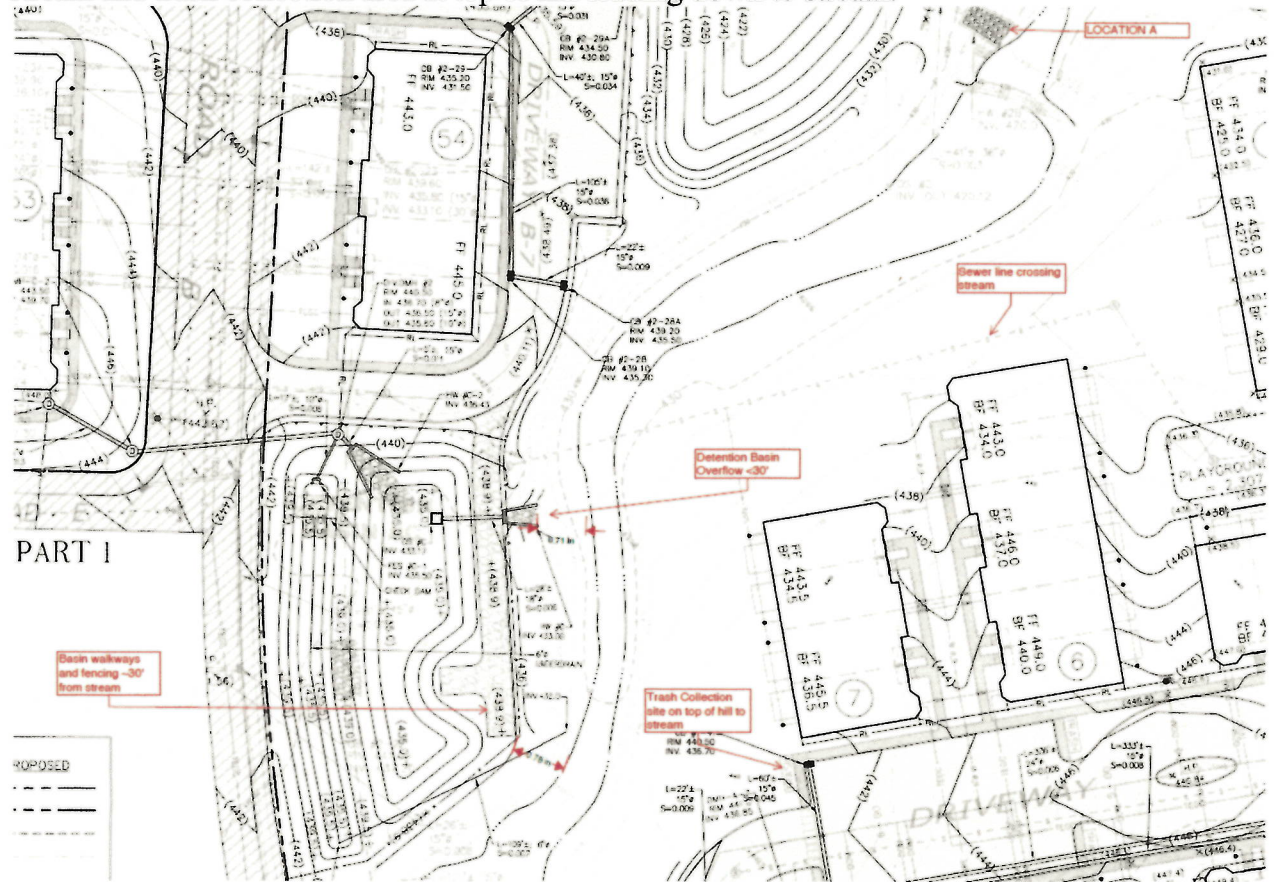






## North of Dam Area with Details from Drawing #9 - - Grading and Drainage 1 of 5

The details below show basin and walkways <30' from stream, sewer line crossing stream and trash collection area at top of hill leading down to stream.



1. The first part of the paper is devoted to the study of the

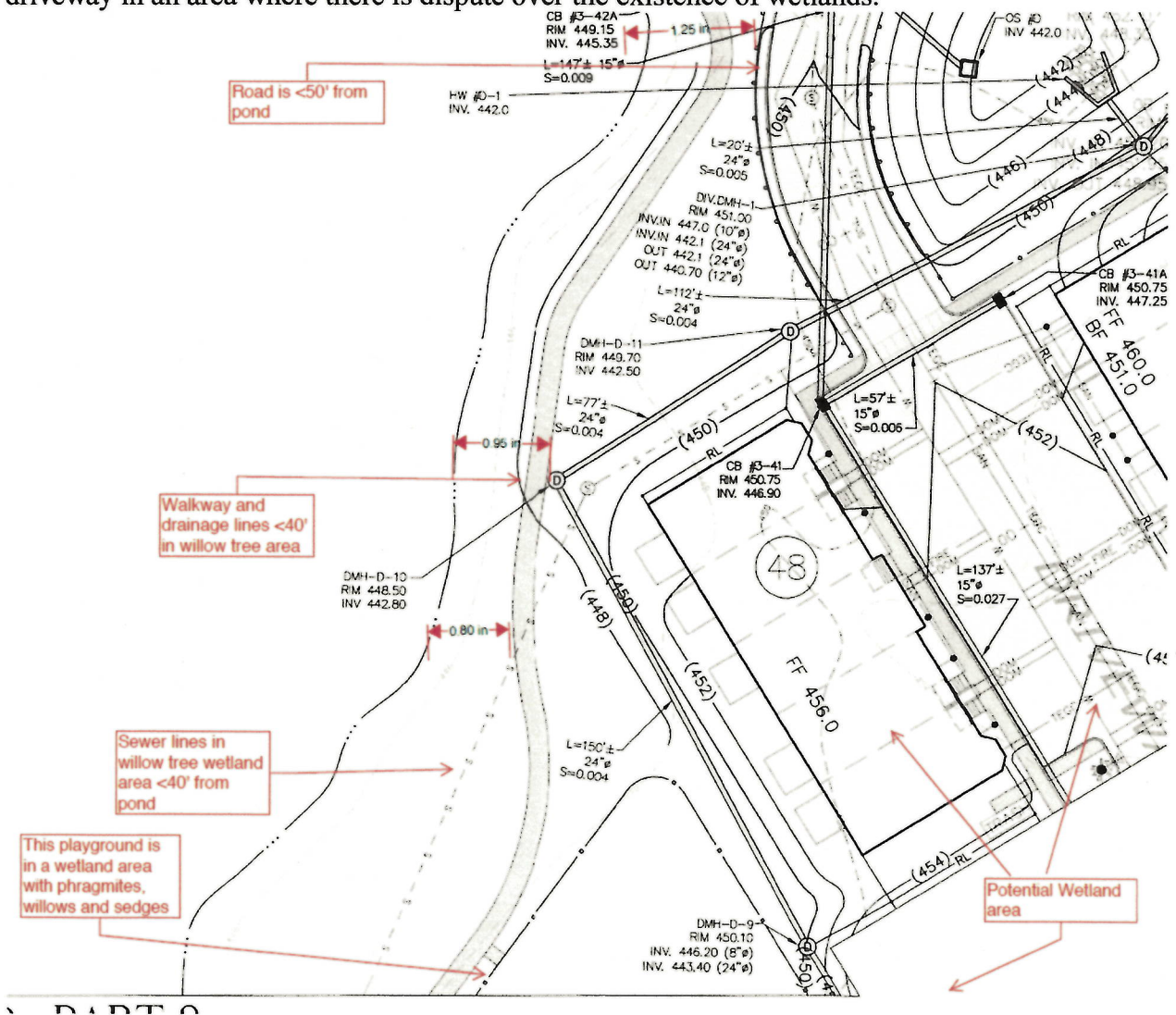
problem of the

existence of solutions of the system of equations

for the case of the



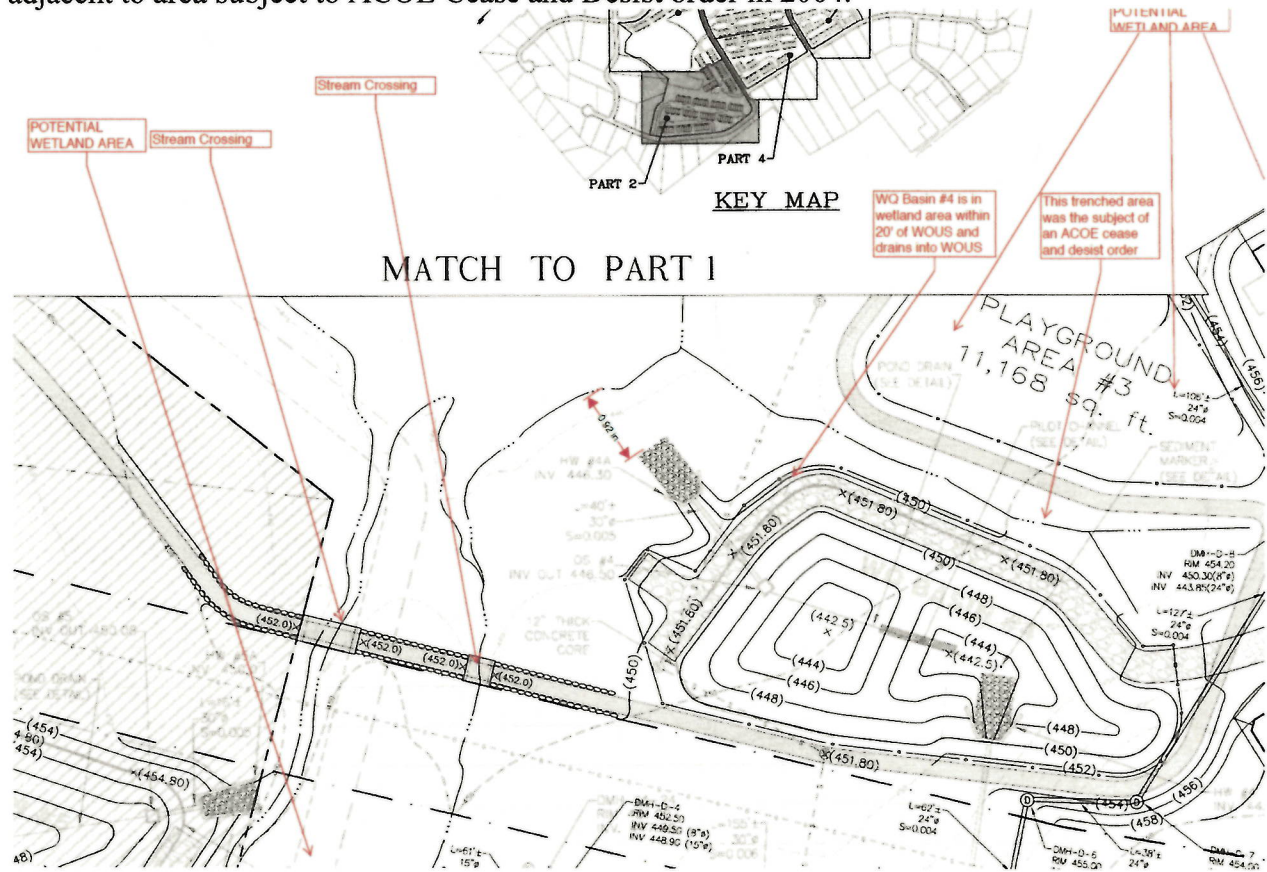
The following shows a road still <50' from pond edge, walkway and sewer lines <40' from pond edge and in area of large willow trees, and playgrounds, buildings and a driveway in an area where there is dispute over the existence of wetlands.





## Areas south and south east of the pond from Condominium Site Plan Drawing #8

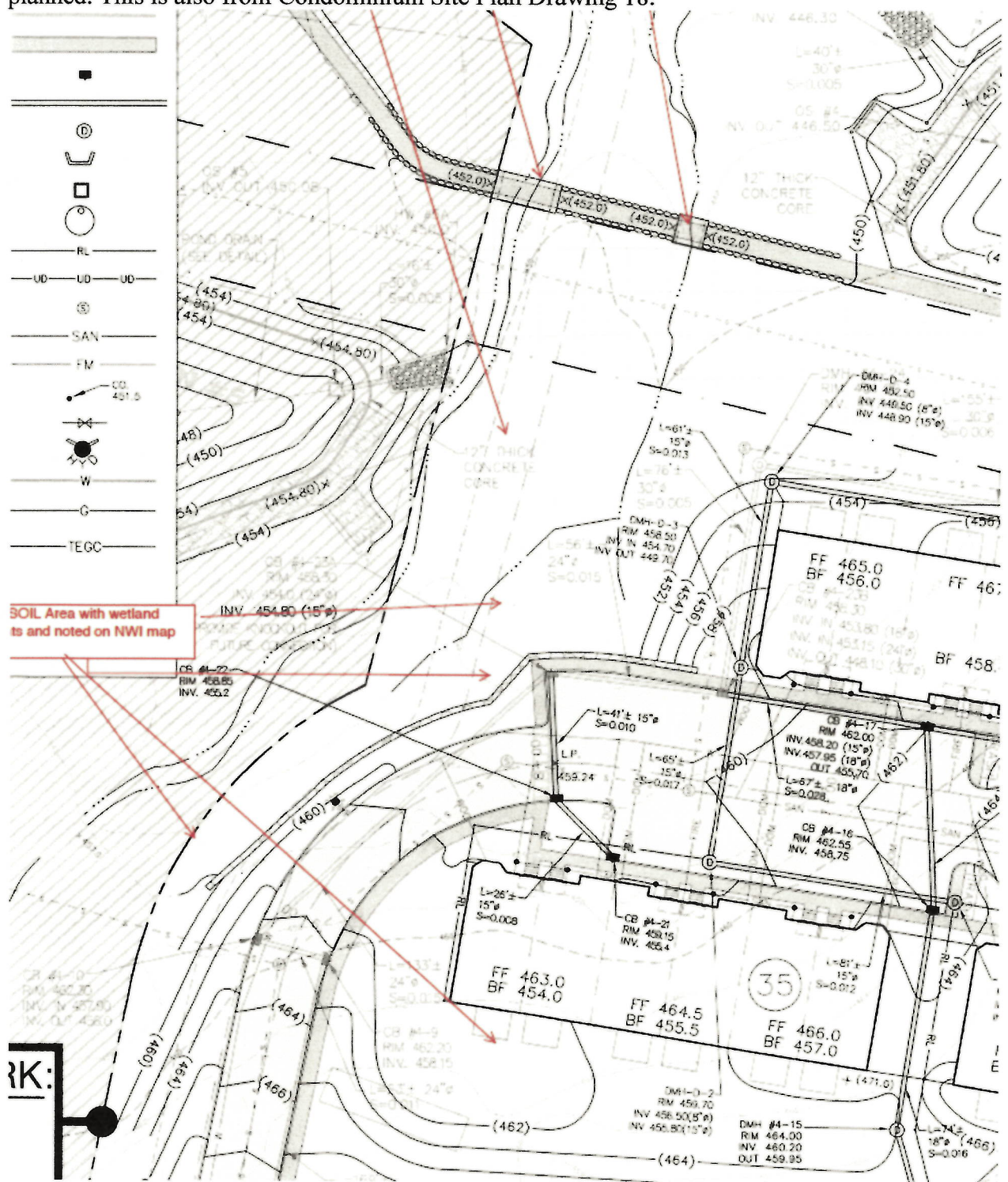
The following shows the detail of the planned development for the area to the south/southeast of the pond where two tributaries converge into the pond in a wetland area. WQ Basin #4 outflows <40' from the pond edge as drawn and is being built adjacent to area subject to ACOE Cease and Desist order in 2004.







South of this section in areas of Alden soil and where there is a wetland noted on the NWI maps and where wetland plants have been observed there are buildings and road planned. This is also from Condominium Site Plan Drawing 18.





# **EXHIBIT F**





DATE	02/02/2017
SCALE	1" = 30'
PROJECT	PATRICK FARM CONDOMINIUMS
OWNER	MODLAND COUNTY, NEW YORK
DESIGNER	LEONARD JACKSON ASSOCIATES

PATRICK FARM CONDOMINIUMS  
MODLAND COUNTY, NEW YORK  
GRADING & DRAINAGE PLAN (PART 2 of 5)

LEONARD JACKSON ASSOCIATES  
1000 WEST 10TH STREET, SUITE 200  
NEW YORK, NY 10014  
TEL: (212) 333-1000  
FAX: (212) 333-1001  
WWW.LJA.COM

REV	DATE	DESCRIPTION
1	02/02/2017	ISSUED FOR PERMIT
2	02/02/2017	REVISIONS
3	02/02/2017	REVISIONS
4	02/02/2017	REVISIONS
5	02/02/2017	REVISIONS
6	02/02/2017	REVISIONS
7	02/02/2017	REVISIONS
8	02/02/2017	REVISIONS
9	02/02/2017	REVISIONS
10	02/02/2017	REVISIONS

- GRADING AND DRAINAGE NOTES:**
1. ALL STORM DRAINAGE AREAS TO BE MAINTAINED AND MONITORED FOR PROPER OPERATION. UNLESS OTHERWISE SPECIFIED, ALL SPECIFIED ROOF SHALL BE MAINTAINED AND MONITORED FOR PROPER OPERATION.
  2. ALL EXISTING OFF-SITE PARAPETS, FENCES, CURBS, WALLS AND OTHER STRUCTURES SHALL BE MAINTAINED AND MONITORED FOR PROPER OPERATION.
  3. PROJECT SAFETY AND TRAFFIC MAINTENANCE ARE THE SOLE RESPONSIBILITY OF THE CONTRACTOR.
  4. THE CONTRACTOR SHALL MAINTAIN EXISTING UTILITIES AND SHALL BE RESPONSIBLE FOR ANY DAMAGE TO EXISTING UTILITIES.
  5. THE CONTRACTOR SHALL MAINTAIN EXISTING LANDSCAPE AND SHALL BE RESPONSIBLE FOR ANY DAMAGE TO EXISTING LANDSCAPE.
  6. THE CONTRACTOR SHALL MAINTAIN EXISTING PAVING AND SHALL BE RESPONSIBLE FOR ANY DAMAGE TO EXISTING PAVING.
  7. THE CONTRACTOR SHALL MAINTAIN EXISTING ELEVATIONS AND SHALL BE RESPONSIBLE FOR ANY DAMAGE TO EXISTING ELEVATIONS.
  8. THE CONTRACTOR SHALL MAINTAIN EXISTING DRAINAGE AND SHALL BE RESPONSIBLE FOR ANY DAMAGE TO EXISTING DRAINAGE.
  9. THE CONTRACTOR SHALL MAINTAIN EXISTING UTILITIES AND SHALL BE RESPONSIBLE FOR ANY DAMAGE TO EXISTING UTILITIES.
  10. THE CONTRACTOR SHALL MAINTAIN EXISTING LANDSCAPE AND SHALL BE RESPONSIBLE FOR ANY DAMAGE TO EXISTING LANDSCAPE.



LEGEND	SYMBOL
EXISTING GRADE	SOLID LINE
PROPOSED GRADE	DASHED LINE
EXISTING DRAINAGE	SOLID LINE WITH ARROW
PROPOSED DRAINAGE	DASHED LINE WITH ARROW
EXISTING UTILITY	SOLID LINE WITH 'X'
PROPOSED UTILITY	DASHED LINE WITH 'X'
EXISTING ELEVATION	NUMBER IN CIRCLE
PROPOSED ELEVATION	NUMBER IN SQUARE
EXISTING STRUCTURE	SOLID LINE WITH HATCH
PROPOSED STRUCTURE	DASHED LINE WITH HATCH
EXISTING ROAD	SOLID LINE WITH HATCH
PROPOSED ROAD	DASHED LINE WITH HATCH
EXISTING PARKING	SOLID LINE WITH HATCH
PROPOSED PARKING	DASHED LINE WITH HATCH
EXISTING LANDSCAPE	SOLID LINE WITH HATCH
PROPOSED LANDSCAPE	DASHED LINE WITH HATCH
EXISTING UTILITIES	SOLID LINE WITH 'X'
PROPOSED UTILITIES	DASHED LINE WITH 'X'
EXISTING ELEVATIONS	NUMBER IN CIRCLE
PROPOSED ELEVATIONS	NUMBER IN SQUARE
EXISTING STRUCTURES	SOLID LINE WITH HATCH
PROPOSED STRUCTURES	DASHED LINE WITH HATCH
EXISTING ROADS	SOLID LINE WITH HATCH
PROPOSED ROADS	DASHED LINE WITH HATCH
EXISTING PARKING	SOLID LINE WITH HATCH
PROPOSED PARKING	DASHED LINE WITH HATCH
EXISTING LANDSCAPE	SOLID LINE WITH HATCH
PROPOSED LANDSCAPE	DASHED LINE WITH HATCH







